

**As Reported by the House Finance and Appropriations
Committee**

**126th General Assembly
Regular Session
2005-2006**

Sub. H. B. No. 66

**Representatives Calvert, Flowers, Martin, McGregor, Peterson, Schlichter,
Webster**

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Assembly; to amend Section 4 of Am. Sub. H.B. 516 193
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Section 153 of Am. Sub. H.B. 117 of the 121st 197
General Assembly, as subsequently amended; to 198
amend Section 5 of Am. Sub. S.B. 50 of the 121st 199
General Assembly, as subsequently amended; and to 200
repeal Sections 59.19 and 147 of Am. Sub. H.B. 95 201
of the 125th General Assembly to make operating 202
appropriations for the biennium beginning July 1, 203
2005 and ending June 30, 2007, and to provide 204
authorization and conditions for the operation of 205
state programs, and to further amend sections 206
3215.18, 5101.35, 5101.80, 5101.801, and 5153.16 207
of the Revised Code on January 1, 2006, to provide 208
authorization and continuation for the operation 209
of certain state programs, and to repeal Section 210
553.01 of this act on December 16, 2005. 211

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

Section 101.01. That sections 9.06, 9.24, 9.833, 9.90, 212
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5747.70, 5747.80, 5747.98, 5749.02, 5919.33, 5920.01, 6109.21, and 300
6111.02, be amended; that sections 181.251 (5502.63), 181.51 301
(5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 302
181.56 (5502.66), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 303
(3318.49), 5101.75 (173.42), 5101.752 (173.43), 5111.02 304
(5111.021), 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 305
(5111.0114), 5111.112 (5111.113), 5111.113 (5111.114), 5111.231 306
(5111.232), 5111.257 (5111.258), 5111.88 (5111.97), 5111.97 307
(5111.86), 5121.01 (5121.02), 5121.02 (5121.03), and 5121.03 308
(5121.01) be amended for the purpose of adopting new section 309
numbers as indicated in parentheses; that new sections 5111.02, 310
5111.112, 5111.231, 5111.257, and 5111.262 and sections 9.901, 311
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5751.98, 5751.99, 5919.31, 5919.341, 6111.0210, 6111.0211, 343
6111.0212, and 6111.0213 of the Revised Code be enacted to read as 344
follows: 345

Sec. 9.06. (A)(1) The department of rehabilitation and 346
correction shall contract for the private operation and management 347
pursuant to this section of the initial intensive program prison 348
established pursuant to section 5120.033 of the Revised Code and 349
may contract for the private operation and management of any other 350
facility under this section. Counties and municipal corporations 351
to the extent authorized in sections 307.93, 341.35, 753.03, and 352
753.15 of the Revised Code, may contract for the private operation 353
and management of a facility under this section. A contract 354
entered into under this section shall be for an initial term of 355
not more than two years, with an option to renew for additional 356
periods of two years. 357

(2) The department of rehabilitation and correction, by rule, 358
shall adopt minimum criteria and specifications that a person or 359
entity, other than a person or entity that satisfies the criteria 360
set forth in division (A)(3)(a) of this section and subject to 361
division (I) of this section, must satisfy in order to apply to 362
operate and manage as a contractor pursuant to this section the 363
initial intensive program prison established pursuant to section 364
5120.033 of the Revised Code. 365

(3) Subject to division (I) of this section, any person or 366
entity that applies to operate and manage a facility as a 367
contractor pursuant to this section shall satisfy one or more of 368
the following criteria: 369

(a) The person or entity is accredited by the American 370
correctional association and, at the time of the application, 371
operates and manages one or more facilities accredited by the 372
American correctional association. 373

(b) The person or entity satisfies all of the minimum 374
criteria and specifications adopted by the department of 375
rehabilitation and correction pursuant to division (A)(2) of this 376

section, provided that this alternative shall be available only in 377
relation to the initial intensive program prison established 378
pursuant to section 5120.033 of the Revised Code. 379

(4) Subject to division (I) of this section, before a public 380
entity may enter into a contract under this section, the 381
contractor shall convincingly demonstrate to the public entity 382
that it can operate the facility with the inmate capacity required 383
by the public entity and provide the services required in this 384
section and realize at least a five per cent savings or, regarding 385
contracts entered into or renewed on or after the effective date 386
of this amendment, at least a ten per cent savings over the 387
projected cost to the public entity of providing these same 388
services to operate the facility that is the subject of the 389
contract. No out-of-state prisoners may be housed in any facility 390
that is the subject of a contract entered into under this section. 391

(B) Subject to division (I) of this section, any contract 392
entered into under this section shall include all of the 393
following: 394

(1) A requirement that the contractor retain the contractor's 395
accreditation from the American correctional association 396
throughout the contract term or, if the contractor applied 397
pursuant to division (A)(3)(b) of this section, continue complying 398
with the applicable criteria and specifications adopted by the 399
department of rehabilitation and correction pursuant to division 400
(A)(2) of this section; 401

(2) A requirement that all of the following conditions be 402
met: 403

(a) The contractor begins the process of accrediting the 404
facility with the American correctional association no later than 405
sixty days after the facility receives its first inmate. 406

(b) The contractor receives accreditation of the facility 407

within twelve months after the date the contractor applies to the American correctional association for accreditation. 408
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(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term. 410
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(d) If the contractor does not comply with divisions (B)(2)(a) to (c) of this section, the contractor is in violation of the contract, and the public entity may revoke the contract at its discretion. 412
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(3) A requirement that the contractor comply with all rules promulgated by the department of rehabilitation and correction that apply to the operation and management of correctional facilities, including the minimum standards for jails in Ohio and policies regarding the use of force and the use of deadly force, although the public entity may require more stringent standards, and comply with any applicable laws, rules, or regulations of the federal, state, and local governments, including, but not limited to, sanitation, food service, safety, and health regulations. The contractor shall be required to send copies of reports of inspections completed by the appropriate authorities regarding compliance with rules and regulations to the director of rehabilitation and correction or the director's designee and, if contracting with a local public entity, to the governing authority of that entity. 416
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(4) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies with jurisdiction over the place at which the facility is located, and, for a crime committed at a state correctional institution, to the state highway patrol; 431
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(5) A requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, 437
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by telephone and in writing to all local law enforcement agencies 439
with jurisdiction over the place at which the facility is located, 440
to the prosecuting attorney of the county in which the facility is 441
located, to the state highway patrol, to a daily newspaper having 442
general circulation in the county in which the facility is 443
located, and, if the facility is a state correctional institution, 444
to the department of rehabilitation and correction. The written 445
notice may be by either facsimile transmission or mail. A failure 446
to comply with this requirement regarding an escape is a violation 447
of section 2921.22 of the Revised Code. 448

(6) A requirement that, if the facility is a state 449
correctional institution, the contractor provide a written report 450
within specified time limits to the director of rehabilitation and 451
correction or the director's designee of all unusual incidents at 452
the facility as defined in rules promulgated by the department of 453
rehabilitation and correction or, if the facility is a local 454
correctional institution, that the contractor provide a written 455
report of all unusual incidents at the facility to the governing 456
authority of the local public entity; 457

(7) A requirement that the contractor maintain proper control 458
of inmates' personal funds pursuant to rules promulgated by the 459
department of rehabilitation and correction, for state 460
correctional institutions, or pursuant to the minimum standards 461
for jails along with any additional standards established by the 462
local public entity, for local correctional institutions, and that 463
records pertaining to these funds be made available to 464
representatives of the public entity for review or audit; 465

(8) A requirement that the contractor prepare and distribute 466
to the director of rehabilitation and correction or, if 467
contracting with a local public entity, to the governing authority 468
of the local entity, annual budget income and expenditure 469
statements and funding source financial reports; 470

(9) A requirement that the public entity appoint and supervise a full-time contract monitor, that the contractor provide suitable office space for the contract monitor at the facility, and that the contractor allow the contract monitor unrestricted access to all parts of the facility and all records of the facility except the contractor's financial records;

(10) A requirement that if the facility is a state correctional institution, designated department of rehabilitation and correction staff members be allowed access to the facility in accordance with rules promulgated by the department;

(11) A requirement that the contractor provide internal and perimeter security as agreed upon in the contract;

(12) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in a state correctional institution, only in accordance with rules promulgated by the department of rehabilitation and correction;

(13) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and adequate both to ensure supervision of inmates and maintenance of security within the facility, and to provide for programs, transportation, security, and other operational needs. In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools.

(14) If the contract is with a local public entity, a requirement that the contractor provide services and programs, consistent with the minimum standards for jails promulgated by the department of rehabilitation and correction under section 5120.10 of the Revised Code;

(15) A clear statement that no immunity from liability

granted to the state, and no immunity from liability granted to 502
political subdivisions under Chapter 2744. of the Revised Code, 503
shall extend to the contractor or any of the contractor's 504
employees; 505

(16) A statement that all documents and records relevant to 506
the facility shall be maintained in the same manner required for, 507
and subject to the same laws, rules, and regulations as apply to, 508
the records of the public entity; 509

(17) Authorization for the public entity to impose a fine on 510
the contractor from a schedule of fines included in the contract 511
for the contractor's failure to perform its contractual duties, or 512
to cancel the contract, as the public entity considers 513
appropriate. If a fine is imposed, the public entity may reduce 514
the payment owed to the contractor pursuant to any invoice in the 515
amount of the imposed fine. 516

(18) A statement that all services provided or goods produced 517
at the facility shall be subject to the same regulations, and the 518
same distribution limitations, as apply to goods and services 519
produced at other correctional institutions; 520

(19) Authorization for the department to establish one or 521
more prison industries at a facility operated and managed by a 522
contractor for the department; 523

(20) A requirement that, if the facility is an intensive 524
program prison established pursuant to section 5120.033 of the 525
Revised Code, the facility shall comply with all criteria for 526
intensive program prisons of that type that are set forth in that 527
section; 528

(21) If the institution is a state correctional institution, 529
a requirement that the contractor provide clothing for all inmates 530
housed in the facility that is conspicuous in its color, style, or 531
color and style, that conspicuously identifies its wearer as an 532

inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility or while being transported to or from the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.

(C) No contract entered into under this section may require, authorize, or imply a delegation of the authority or responsibility of the public entity to a contractor for any of the following:

(1) Developing or implementing procedures for calculating inmate release and parole eligibility dates and recommending the granting or denying of parole, although the contractor may submit written reports that have been prepared in the ordinary course of business;

(2) Developing or implementing procedures for calculating and awarding earned credits, approving the type of work inmates may perform and the wage or earned credits, if any, that may be awarded to inmates engaging in that work, and granting, denying, or revoking earned credits;

(3) For inmates serving a term imposed for a felony offense committed prior to July 1, 1996, or for a misdemeanor offense, developing or implementing procedures for calculating and awarding good time, approving the good time, if any, that may be awarded to inmates engaging in work, and granting, denying, or revoking good time;

(4) For inmates serving a term imposed for a felony offense committed on or after July 1, 1996, extending an inmate's term

pursuant to the provisions of law governing bad time;	564
(5) Classifying an inmate or placing an inmate in a more or a less restrictive custody than the custody ordered by the public entity;	565 566 567
(6) Approving inmates for work release;	568
(7) Contracting for local or long distance telephone services for inmates or receiving commissions from those services at a facility that is owned by or operated under a contract with the department.	569 570 571 572
(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.	573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588
A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under	589 590 591 592 593 594

this section, shall indemnify and hold harmless the state, its
officers, agents, and employees, and any local government entity
in the state having jurisdiction over the facility or ownership of
the facility, shall reimburse the state for its costs in defending
the state or any of its officers, agents, or employees, and shall
reimburse any local government entity of that nature for its costs
in defending the local government entity, from all of the
following:

(1) Any claims or losses for services rendered by the
contractor, person, or entity performing or supplying services in
connection with the performance of the contract;

(2) Any failure of the contractor, person, or entity or its
officers or employees to adhere to the laws, rules, regulations,
or terms agreed to in the contract;

(3) Any constitutional, federal, state, or civil rights claim
brought against the state related to the facility operated and
managed by the contractor;

(4) Any claims, losses, demands, or causes of action arising
out of the contractor's, person's, or entity's activities in this
state;

(5) Any attorney's fees or court costs arising from any
habeas corpus actions or other inmate suits that may arise from
any event that occurred at the facility or was a result of such an
event, or arise over the conditions, management, or operation of
the facility, which fees and costs shall include, but not be
limited to, attorney's fees for the state's representation and for
any court-appointed representation of any inmate, and the costs of
any special judge who may be appointed to hear those actions or
suits.

(E) Private correctional officers of a contractor operating
and managing a facility pursuant to a contract entered into under

this section may carry and use firearms in the course of their 626
employment only after being certified as satisfactorily completing 627
an approved training program as described in division (A) of 628
section 109.78 of the Revised Code. 629

(F) Upon notification by the contractor of an escape from, or 630
of a disturbance at, the facility that is the subject of a 631
contract entered into under this section, the department of 632
rehabilitation and correction and state and local law enforcement 633
agencies shall use all reasonable means to recapture escapees or 634
quell any disturbance. Any cost incurred by the state or its 635
political subdivisions relating to the apprehension of an escapee 636
or the quelling of a disturbance at the facility shall be 637
chargeable to and borne by the contractor. The contractor shall 638
also reimburse the state or its political subdivisions for all 639
reasonable costs incurred relating to the temporary detention of 640
the escapee following recapture. 641

(G) Any offense that would be a crime if committed at a state 642
correctional institution or jail, workhouse, prison, or other 643
correctional facility shall be a crime if committed by or with 644
regard to inmates at facilities operated pursuant to a contract 645
entered into under this section. 646

(H) A contractor operating and managing a facility pursuant 647
to a contract entered into under this section shall pay any inmate 648
workers at the facility at the rate approved by the public entity. 649
Inmates working at the facility shall not be considered employees 650
of the contractor. 651

(I) In contracting for the private operation and management 652
pursuant to division (A) of this section of the initial intensive 653
program prison established pursuant to section 5120.033 of the 654
Revised Code or of any other intensive program prison established 655
pursuant to that section, the department of rehabilitation and 656

correction may enter into a contract with a contractor for the
general operation and management of the prison and may enter into
one or more separate contracts with other persons or entities for
the provision of specialized services for persons confined in the
prison, including, but not limited to, security or training
services or medical, counseling, educational, or similar treatment
programs. If, pursuant to this division, the department enters
into a contract with a contractor for the general operation and
management of the prison and also enters into one or more
specialized service contracts with other persons or entities, all
of the following apply:

(1) The contract for the general operation and management
shall comply with all requirements and criteria set forth in this
section, and all provisions of this section apply in relation to
the prison operated and managed pursuant to the contract.

(2) Divisions (A)(2), (B), and (C) of this section do not
apply in relation to any specialized services contract, except to
the extent that the provisions of those divisions clearly are
relevant to the specialized services to be provided under the
specialized services contract. Division (D) of this section
applies in relation to each specialized services contract.

(J) As used in this section:

(1) "Public entity" means the department of rehabilitation
and correction, or a county or municipal corporation or a
combination of counties and municipal corporations, that has
jurisdiction over a facility that is the subject of a contract
entered into under this section.

(2) "Local public entity" means a county or municipal
corporation, or a combination of counties and municipal
corporations, that has jurisdiction over a jail, workhouse, or
other correctional facility used only for misdemeanants that is

the subject of a contract entered into under this section. 688

(3) "Governing authority of a local public entity" means, for 689
a county, the board of county commissioners; for a municipal 690
corporation, the legislative authority; for a combination of 691
counties and municipal corporation, all the boards of county 692
commissioners and municipal legislative authorities that joined to 693
create the facility. 694

(4) "Contractor" means a person or entity that enters into a 695
contract under this section to operate and manage a jail, 696
workhouse, or other correctional facility. 697

(5) "Facility" means the specific county, multicounty, 698
municipal, municipal-county, or multicounty-municipal jail, 699
workhouse, prison, or other type of correctional institution or 700
facility used only for misdemeanants, or a state correctional 701
institution, that is the subject of a contract entered into under 702
this section. 703

(6) "Person or entity" in the case of a contract for the 704
private operation and management of a state correctional 705
institution, includes an employee organization, as defined in 706
section 4117.01 of the Revised Code, that represents employees at 707
state correctional institutions. 708

Sec. 9.24. (A) Except as may be allowed under division (F) of 709
this section, no state agency and no political subdivision shall 710
award a contract as described in division (G)(1) of this section 711
for goods, services, or construction, paid for in whole or in part 712
with state funds, to a person against whom a finding for recovery 713
has been issued by the auditor of state on and after January 1, 714
2001, if the finding for recovery is unresolved. 715

A contract is considered to be awarded when it is entered 716
into or executed, irrespective of whether the parties to the 717

contract have exchanged any money. 718

(B) For purposes of this section, a finding for recovery is 719
unresolved unless one of the following criteria applies: 720

(1) The money identified in the finding for recovery is paid 721
in full to the state agency or political subdivision to whom the 722
money was owed; 723

(2) The debtor has entered into a repayment plan that is 724
approved by the attorney general and the state agency or political 725
subdivision to whom the money identified in the finding for 726
recovery is owed. A repayment plan may include a provision 727
permitting a state agency or political subdivision to withhold 728
payment to a debtor for goods, services, or construction provided 729
to or for the state agency or political subdivision pursuant to a 730
contract that is entered into with the debtor after the date the 731
finding for recovery was issued. 732

(3) The attorney general waives a repayment plan described in 733
division (B)(2) of this section for good cause; 734

(4) The debtor and state agency or political subdivision to 735
whom the money identified in the finding for recovery is owed have 736
agreed to a payment plan established through an enforceable 737
settlement agreement. 738

(5) The state agency or political subdivision desiring to 739
enter into a contract with a debtor certifies, and the attorney 740
general concurs, that all of the following are true: 741

(a) Essential services the state agency or political 742
subdivision is seeking to obtain from the debtor cannot be 743
provided by any other person besides the debtor; 744

(b) Awarding a contract to the debtor for the essential 745
services described in division (B)(5)(a) of this section is in the 746
best interest of the state; 747

(c) Good faith efforts have been made to collect the money 748
identified in the finding of recovery. 749

(6) The debtor has commenced an action to contest the finding 750
for recovery and a final determination on the action has not yet 751
been reached. 752

(C) The attorney general shall submit an initial report to 753
the auditor of state, not later than December 1, 2003, indicating 754
the status of collection for all findings for recovery issued by 755
the auditor of state for calendar years 2001, 2002, and 2003. 756
Beginning on January 1, 2004, the attorney general shall submit to 757
the auditor of state, on the first day of every January, April, 758
July, and October, a list of all findings for recovery that have 759
been resolved in accordance with division (B) of this section 760
during the calendar quarter preceding the submission of the list 761
and a description of the means of resolution. The attorney general 762
shall notify the auditor of state when a judgment is issued 763
against an entity described in division (F)(1) of this section. 764

(D) The auditor of state shall maintain a database, 765
accessible to the public, listing persons against whom an 766
unresolved finding for recovery has been issued, and the amount of 767
the money identified in the unresolved finding for recovery. The 768
auditor of state shall have this database operational on or before 769
January 1, 2004. The initial database shall contain the 770
information required under this division for calendar years 2001, 771
2002, and 2003. 772

Beginning January 15, 2004, the auditor of state shall update 773
the database by the fifteenth day of every January, April, July, 774
and October to reflect resolved findings for recovery that are 775
reported to the auditor of state by the attorney general on the 776
first day of the same month pursuant to division (C) of this 777
section. 778

(E) Before awarding a contract as described in division 779
(G)(1) of this section for goods, services, or construction, paid 780
for in whole or in part with state funds, a state agency or 781
political subdivision shall verify that the person to whom the 782
state agency or political subdivision plans to award the contract 783
has no unresolved finding for recovery issued against the person. 784
A state agency or political subdivision shall verify that the 785
person does not appear in the database described in division (D) 786
of this section or shall obtain other proof that the person has no 787
unresolved finding for recovery issued against the person. 788

(F) The prohibition of division (A) of this section and the 789
requirement of division (E) of this section do not apply with 790
respect to the companies or agreements described in divisions 791
(F)(1) and (2) of this section, or in the circumstance described 792
in division (F)(3) of this section. 793

(1) A bonding company or a company authorized to transact the 794
business of insurance in this state, a self-insurance pool, joint 795
self-insurance pool, risk management program, or joint risk 796
management program, unless a court has entered a final judgment 797
against the company and the company has not yet satisfied the 798
final judgment. 799

(2) To ~~medicaid provider agreements under Chapter 5111. of~~ 800
~~the Revised Code or payments or provider agreements under~~ 801
~~disability assistance medical assistance established under Chapter~~ 802
~~5115. of the Revised Code.~~ 803

(3) When federal law dictates that a specified entity provide 804
the goods, services, or construction for which a contract is being 805
awarded, regardless of whether that entity would otherwise be 806
prohibited from entering into the contract pursuant to this 807
section. 808

(G)(1) This section applies only to contracts for goods, 809

services, or construction that satisfy the criteria in either 810
division (G)(1)(a) or (b) of this ~~division~~ section. This section 811
may apply to contracts for goods, services, or construction that 812
satisfy the criteria in division (G)(1)(c) of this section, 813
provided that the contracts also satisfy the criteria in either 814
division (G)(1)(a) or (b) of this ~~division~~ section. 815

(a) The cost for the goods, services, or construction 816
provided under the contract is estimated to exceed twenty-five 817
thousand dollars. 818

(b) The aggregate cost for the goods, services, or 819
construction provided under multiple contracts entered into by the 820
particular state agency and a single person or the particular 821
political subdivision and a single person within the fiscal year 822
preceding the fiscal year within which a contract is being entered 823
into by that same state agency and the same single person or the 824
same political subdivision and the same single person, exceeded 825
fifty thousand dollars. 826

(c) The contract is a renewal of a contract previously 827
entered into and renewed pursuant to that preceding contract. 828

(2) This section does not apply to employment contracts. 829

(H) As used in this section: 830

(1) "State agency" has the same meaning as in section 9.66 of 831
the Revised Code. 832

(2) "Political subdivision" means a political subdivision as 833
defined in section 9.82 of the Revised Code that has received more 834
than fifty thousand dollars of state money in the current fiscal 835
year or the preceding fiscal year. 836

(3) "Finding for recovery" means a determination issued by 837
the auditor of state, contained in a report the auditor of state 838
gives to the attorney general pursuant to section 117.28 of the 839

Revised Code, that public money has been illegally expended, 840
public money has been collected but not been accounted for, public 841
money is due but has not been collected, or public property has 842
been converted or misappropriated. 843

(4) "Debtor" means a person against whom a finding for 844
recovery has been issued. 845

(5) "Person" means the person named in the finding for 846
recovery. 847

(6) "State money" does not include funds the state receives 848
from another source and passes through to a political subdivision. 849

Sec. 9.833. (A) As used in this section, "political 850
subdivision" means a municipal corporation, township, county, 851
~~school district~~, or other body corporate and politic responsible 852
for governmental activities in a geographic area smaller than that 853
of the state, and agencies and instrumentalities of these 854
entities. For purposes of this section, a school district is not a 855
"political subdivision." 856

(B) Political subdivisions that provide health care benefits 857
for their officers or employees may do any of the following: 858

(1) Establish and maintain an individual self-insurance 859
program with public moneys to provide authorized health care 860
benefits, including but not limited to, health care, prescription 861
drugs, dental care, and vision care, in accordance with division 862

(C) of this section; 863

(2) After establishing an individual self-insurance program, 864
agree with other political subdivisions that have established 865
individual self-insurance programs for health care benefits, that 866
their programs will be jointly administered in a manner specified 867
in the agreement; 868

(3) Pursuant to a written agreement and in accordance with 869

division (C) of this section, join in any combination with other 870
political subdivisions to establish and maintain a joint 871
self-insurance program to provide health care benefits; 872

(4) Pursuant to a written agreement, join in any combination 873
with other political subdivisions to procure or contract for 874
policies, contracts, or plans of insurance to provide health care 875
benefits for their officers and employees subject to the 876
agreement; 877

(5) Use in any combination any of the policies, contracts, 878
plans, or programs authorized under this division. 879

(C) Except as otherwise provided in division (E) of this 880
section, the following apply to individual or joint self-insurance 881
programs established pursuant to this section: 882

(1) Such funds shall be reserved as are necessary, in the 883
exercise of sound and prudent actuarial judgment, to cover 884
potential cost of health care benefits for the officers and 885
employees of the political subdivision. A report of amounts so 886
reserved and disbursements made from such funds, together with a 887
written report of a member of the American academy of actuaries 888
certifying whether the amounts reserved conform to the 889
requirements of this division, are computed in accordance with 890
accepted loss reserving standards, and are fairly stated in 891
accordance with sound loss reserving principles, shall be prepared 892
and maintained, within ninety days after the last day of the 893
fiscal year of the entity for which the report is provided for 894
that fiscal year, in the office of the program administrator 895
described in division (C)(3) of this section. 896

The report required by division (C)(1) of this section shall 897
include, but not be limited to, disbursements made for the 898
administration of the program, including claims paid, costs of the 899
legal representation of political subdivisions and employees, and 900

fees paid to consultants.

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The program administrator described in division (C)(3) of this section shall make the report required by this division available for inspection by any person at all reasonable times during regular business hours, and, upon the request of such person, shall make copies of the report available at cost within a reasonable period of time.

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(2) Each political subdivision shall reserve funds necessary for an individual or joint self-insurance program in a special fund that may be established for political subdivisions other than an agency or instrumentality pursuant to an ordinance or resolution of the political subdivision and not subject to section 5705.12 of the Revised Code. An agency or instrumentality shall reserve the funds necessary for an individual or joint self-insurance program in a special fund established pursuant to a resolution duly adopted by the agency's or instrumentality's governing board. The political subdivision may allocate the costs of insurance or any self-insurance program, or both, among the funds or accounts ~~in the subdivision's treasury~~ established under this division on the basis of relative exposure and loss experience.

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(3) A contract may be awarded, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under Chapter 1702. of the Revised Code, or regional council of governments created under Chapter 167. of the Revised Code for purposes of administration of an individual or joint self-insurance program. No such contract shall be entered into without full, prior, public disclosure of all terms and conditions. The disclosure shall include, at a minimum, a statement listing all representations made in connection with any possible savings and losses resulting from the contract, and potential liability of any political subdivision or employee. The

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proposed contract and statement shall be disclosed and presented 933
at a meeting of the political subdivision not less than one week 934
prior to the meeting at which the political subdivision authorizes 935
the contract. 936

A contract awarded to a nonprofit corporation or a regional 937
council of governments under this division may provide that all 938
employees of the nonprofit corporation or regional council of 939
governments and the employees of all entities related to the 940
nonprofit corporation or regional council of governments may be 941
covered by the individual or joint self-insurance program under 942
the terms and conditions set forth in the contract. 943

(4) The individual or joint self-insurance program shall 944
include a contract with a member of the American academy of 945
actuaries for the preparation of the written evaluation of the 946
reserve funds required under division (C)(1) of this section. 947

(5) A joint self-insurance program may allocate the costs of 948
funding the program among the funds or accounts ~~in the treasuries~~ 949
~~of~~ established under this division to the participating political 950
subdivisions on the basis of their relative exposure and loss 951
experience. 952

(6) An individual self-insurance program may allocate the 953
costs of funding the program among the funds or accounts ~~in the~~ 954
~~treasury of~~ established under this division to the political 955
subdivision that established the program. 956

(7) Two or more political subdivisions may also authorize the 957
establishment and maintenance of a joint health care cost 958
containment program, including, but not limited to, the employment 959
of risk managers, health care cost containment specialists, and 960
consultants, for the purpose of preventing and reducing health 961
care costs covered by insurance, individual self-insurance, or 962
joint self-insurance programs. 963

(8) A political subdivision is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance program. Under a joint self-insurance program agreement, a political subdivision may, to the extent permitted under the written agreement, assume the risks of any other political subdivision. A joint self-insurance program established under this section is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance program to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

(9) Any political subdivision, other than an agency or instrumentality, may issue general obligation bonds, or special obligation bonds that are not payable from real or personal property taxes, and may also issue notes in anticipation of such bonds, pursuant to an ordinance or resolution of its legislative authority or other governing body for the purpose of providing funds to pay expenses associated with the settlement of claims, whether by way of a reserve or otherwise, and to pay the political subdivision's portion of the cost of establishing and maintaining an individual or joint self-insurance program or to provide for the reserve in the special fund authorized by division (C)(2) of this section.

In its ordinance or resolution authorizing bonds or notes under this section, a political subdivision may elect to issue such bonds or notes under the procedures set forth in Chapter 133. of the Revised Code. In the event of such an election, notwithstanding Chapter 133. of the Revised Code, the maturity of the bonds may be for any period authorized in the ordinance or resolution not exceeding twenty years, which period shall be the

maximum maturity of the bonds for purposes of section 133.22 of 996
the Revised Code. 997

Bonds and notes issued under this section shall not be 998
considered in calculating the net indebtedness of the political 999
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 1000
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 1001
hereby made applicable to bonds or notes authorized under this 1002
section. 1003

(10) A joint self-insurance program is not an insurance 1004
company. Its operation does not constitute doing an insurance 1005
business and is not subject to the insurance laws of this state. 1006

(D) A political subdivision may procure group life insurance 1007
for its employees in conjunction with an individual or joint 1008
self-insurance program authorized by this section, provided that 1009
the policy of group life insurance is not self-insured. 1010

(E) Divisions (C)(1), (2), and (4) of this section do not 1011
apply to individual self-insurance programs in municipal 1012
corporations, townships, or counties. 1013

(F) A public official or employee of a political subdivision 1014
who is or becomes a member of the governing body of the program 1015
administrator of a joint self-insurance program in which the 1016
political subdivision participates is not in violation of division 1017
(D) or (E) of section 102.03, division (C) of section 102.04, or 1018
section 2921.42 of the Revised Code as a result of either of the 1019
following: 1020

(1) The political subdivision's entering under this section 1021
into the written agreement to participate in the joint 1022
self-insurance program; 1023

(2) The political subdivision's entering under this section 1024
into any other contract with the joint self-insurance program. 1025

Sec. 9.90. (A) The governing board of any public institution 1026
of higher education, including without limitation state 1027
universities and colleges, community college districts, university 1028
branch districts, technical college districts, and municipal 1029
universities, ~~or the board of education of any school district,~~ 1030
may, in addition to all other powers provided in the Revised Code: 1031

(1) Contract for, purchase, or otherwise procure from an 1032
insurer or insurers licensed to do business by the state of Ohio 1033
for or on behalf of such of its employees as it may determine, 1034
life insurance, or sickness, accident, annuity, endowment, health, 1035
medical, hospital, dental, or surgical coverage and benefits, or 1036
any combination thereof, by means of insurance plans or other 1037
types of coverage, family, group or otherwise, and may pay from 1038
funds under its control and available for such purpose all or any 1039
portion of the cost, premium, or charge for such insurance, 1040
coverage, or benefits. However, the governing board, in addition 1041
to or as an alternative to the authority otherwise granted by 1042
division (A)(1) of this section, may elect to procure coverage for 1043
health care services, for or on behalf of such of its employees as 1044
it may determine, by means of policies, contracts, certificates, 1045
or agreements issued by at least two health insuring corporations 1046
holding a certificate of authority under Chapter 1751. of the 1047
Revised Code and may pay from funds under the governing board's 1048
control and available for such purpose all or any portion of the 1049
cost of such coverage. 1050

(2) Make payments to a custodial account for investment in 1051
regulated investment company stock for the purpose of providing 1052
retirement benefits as described in section 403(b)(7) of the 1053
Internal Revenue Code of 1954, as amended. Such stock shall be 1054
purchased only from persons authorized to sell such stock in this 1055
state. 1056

Any income of an employee deferred under divisions (A)(1) and 1057
(2) of this section in a deferred compensation program eligible 1058
for favorable tax treatment under the Internal Revenue Code of 1059
1954, as amended, shall continue to be included as regular 1060
compensation for the purpose of computing the contributions to and 1061
benefits from the retirement system of such employee. Any sum so 1062
deferred shall not be included in the computation of any federal 1063
and state income taxes withheld on behalf of any such employee. 1064

(B) All or any portion of the cost, premium, or charge 1065
therefor may be paid in such other manner or combination of 1066
manners as the governing board ~~or the school board~~ may determine, 1067
including direct payment by the employee in cases under division 1068
(A)(1) of this section, and, if authorized in writing by the 1069
employee in cases under division (A)(1) or (2) of this section, by 1070
such governing board ~~or school board~~ with moneys made available by 1071
deduction from or reduction in salary or wages or by the foregoing 1072
of a salary or wage increase. Division (B)(7) of section 3917.01 1073
and the last paragraph of section 3917.06 of the Revised Code 1074
shall not prohibit the issuance or purchase of group life 1075
insurance authorized by this section by reason of payment of 1076
premiums therefor by the governing board ~~or the school board~~ from 1077
its funds, and such group life insurance may be so issued and 1078
purchased if otherwise consistent with the provisions of sections 1079
3917.01 to 3917.07 of the Revised Code. 1080

(C) The board of education of any school district may 1081
exercise any of the powers granted to the governing boards of 1082
public institutions of higher education under divisions (A) and 1083
(B) of this section, except in relation to the provision of life 1084
and health care benefits to employees. All life and health care 1085
benefits provided to persons employed by the public schools of 1086
this state shall be from life and medical plans designed by the 1087
school employees health care board pursuant to section 9.901 of 1088

the Revised Code.

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Sec. 9.901. (A) All life and health care benefits provided to persons employed by the public schools of this state shall be provided by life and medical plans designed pursuant to this section by the school employees health care board. The board, in consultation with the superintendent of insurance, shall negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state for the issuance of the plans so designed. As used in this section, a "public school" means a school in a city, local, exempted village, or joint vocational school district, and includes the educational service centers associated with those schools.

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(B) The school employees health care board is hereby created. The school employees health care board shall consist of the following nine members and shall include individuals with experience with public school benefit programs, health care industry providers, and medical plan beneficiaries:

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(1) Three members appointed by the governor;

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(2) Three members appointed by the president of the senate;

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(3) Three members appointed by the speaker of the house of representatives.

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A member of the school employees health care board shall not be employed by, represent, or in any way be affiliated with a private entity that is providing services to the board, employers, or employees.

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(C)(1) Members of the school employees health care board shall serve four-year terms; however, one of each of the initial members appointed under divisions (B)(1) to (3) of this section shall be appointed to a term of one year. The initial appointments

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under this section shall be made within forty-five days after the 1119
effective date of this section. 1120

Members' terms shall end on the same day of the same month as 1121
the effective date of this section, but a member shall continue to 1122
serve subsequent to the expiration of the member's term until a 1123
successor is appointed. Any vacancy occurring during a member's 1124
term shall be filled in the same manner as the original 1125
appointment, except that the person appointed to fill the vacancy 1126
shall be appointed to the remainder of the unexpired term. 1127

(2) Members shall serve without compensation but shall be 1128
reimbursed from the school employees health care fund for actual 1129
and necessary expenses incurred in the performance of their 1130
official duties as members of the board. 1131

(3) Members may be removed by their appointing authority for 1132
misfeasance, malfeasance, incompetence, dereliction of duty, or 1133
other just cause. 1134

(D)(1) The governor shall call the first meeting of the 1135
school employees health care board. At that meeting, and annually 1136
thereafter, the board shall elect a chairperson and may elect 1137
members to other positions on the board as the board considers 1138
necessary or appropriate. The board shall meet at least four times 1139
each calendar year and shall also meet at the call of the 1140
chairperson or three or more board members. The chairperson shall 1141
provide reasonable advance notice of the time and place of board 1142
meetings to all members. 1143

(2) A majority of the board constitutes a quorum for the 1144
transaction of business at a board meeting. A majority vote of the 1145
members present is necessary for official action. 1146

(E) The school employees health care board shall conduct its 1147
business at open meetings; however, the records of the board are 1148
not public records for purposes of section 149.43 of the Revised 1149

Code. 1150

(F) The school employees health care fund is hereby created 1151
in the state treasury. The public schools shall pay all school 1152
employees health care board plan premiums in the manner prescribed 1153
by the school employees health care board to the board for deposit 1154
into the school employees health care fund. All funds in the 1155
school employees health care fund shall be used solely for the 1156
provision of life and health care benefits to public schools 1157
employees pursuant to this section and related administrative 1158
costs. 1159

(G) The school employees health care board shall do all of 1160
the following: 1161

(1) Design multiple life and medical plans to provide, in the 1162
board's judgment, the optimal combination of coverage, cost, 1163
choice, and stability; 1164

(2) Include both state and regional preferred provider plans 1165
in the medical plans designed by the board; 1166

(3) Set an aggregate goal for employee and employer portions 1167
of premiums for the board's life and medical plans so as to manage 1168
plan participation and encourage the use of value-based plan 1169
participation by employees; 1170

(4) Set employee plan copayments, deductibles, exclusions, 1171
limitations, formularies, and other responsibilities; 1172

(5) Create and distribute to the governor, the speaker of the 1173
house of representatives, and the president of the senate, an 1174
annual report covering the plan background; plan coverage options; 1175
plan administration, including procedures for monitoring and 1176
managing objectives, scope, and methodology; plan operations; 1177
employee and employer contribution rates and the relationship 1178
between the rates and the school employees health care fund 1179

balance; a means to develop and maintain identity and evaluate 1180
alternative employee and employer cost-sharing strategies; an 1181
evaluation of the effectiveness of cost-saving services and 1182
programs; an evaluation of efforts to control and manage member 1183
eligibility and to insure that proper employee and employer 1184
contributions are remitted to the trust fund; efforts to prevent 1185
and detect fraud; and efforts to manage and monitor board 1186
contracts; 1187

(6) Utilize cost containment measures aligned with patient, 1188
plan, and provider management strategies in developing and 1189
managing life and medical plans. 1190

(H) The sections in Chapter 3923. of the Revised Code 1191
regulating public employee benefit plans are not applicable to the 1192
medical plans designed pursuant to this section. 1193

(I)(1) Public schools are not subject to this section prior 1194
to the release of life and medical plans designed pursuant to this 1195
section. The school employees health care board shall release its 1196
initial life and medical plans not later than March 15, 2006. 1197

(2) Districts offering employee health care benefits through 1198
a plan offered by a consortium of two or more districts 1199
representing five thousand or more employees as of January 1, 1200
2005, may request permission from the school employees health care 1201
board to continue offering consortium plans to the districts' 1202
employees at the discretion of the board. If the board grants 1203
permission, the permission is valid for only one year but may be 1204
renewed annually thereafter upon application to an approval of the 1205
board. The board shall grant initial or continued approval upon 1206
finding, based on an actuarial evaluation of the existing 1207
consortium plan offerings, that benefit design, premium costs, 1208
administrative cost, and other factors considered by the board are 1209
equivalent to or lower than comparable costs of the board's plan 1210

options offered to the local district. Age and gender adjustments, 1211
benefit comparison adjustments, and the total cost of the 1212
consortium plan, including administration, benefit cost, stop-loss 1213
insurance, and all other expenses or information requested by the 1214
board shall be presented to the board prior to the board's 1215
decision to allow a local district to continue to offer health 1216
care benefits under a consortium plan. A district shall not 1217
participate in the consortium plan once the district has chosen to 1218
offer plans designed by the board to the district's employees and 1219
begins premium payments for deposit into the school employees 1220
health care fund. 1221

(J) The school employees health care board may contract with 1222
other state agencies as the board deems necessary for the 1223
implementation and operation of this section, based on 1224
demonstrated experience and expertise in administration, 1225
management, data handling, actuarial studies, quality assurance, 1226
or other needed services. The school employees health care board 1227
shall contract with the department of administrative services for 1228
central services until the board is able to obtain such services 1229
from other sources. The board shall reimburse the department of 1230
administrative services for the reasonable cost of those services. 1231
The board's administrative functions shall include, but are not 1232
limited to, the following: 1233

(1) Maintaining reserves in the school employees health care 1234
fund, reinsurance, and other measures that in the judgment of the 1235
board will result in the long-term stability and solvency of the 1236
life and medical plans designed by the board; 1237

(2) Providing health care information, wellness programs, and 1238
other preventive health care measures to medical plan 1239
beneficiaries, to the extent that the board determines to be 1240
appropriate; 1241

(3) Coordinating contracts for services related to the 1242
board's life and medical plans. Contracts shall be approved by the 1243
school employees health care board. 1244

(K) Not less than ninety days before coverage begins for 1245
public school employees under life and medical plans designed by 1246
the school employees health care board, a school district's board 1247
of education shall provide detailed information about the life and 1248
medical plans to the employees. 1249

(L) The Ohio board of regents shall report to the governor, 1250
the speaker of the house of representatives, and the president of 1251
the senate within eighteen months after the effective date of this 1252
section on the feasibility of achieving all of the following: 1253

(1) Designing multiple life and medical plans to cover 1254
persons employed by public institutions of higher education that 1255
achieve an optimal combination of coverage, cost, choice, and 1256
stability, which plans include both state and regional preferred 1257
provider plans, set employee and employer premiums, and set 1258
employee plan copayments, deductibles, exclusions, limitations, 1259
formularies, and other responsibilities. For this purpose, "public 1260
institutions of higher education" include, without limitation, 1261
state universities and colleges, state community college 1262
districts, community college districts, university branch 1263
districts, technical college districts, and municipal 1264
universities. 1265

(2) Maintaining reserves, reinsurance, and other measures to 1266
insure the long-term stability and solvency of the life and 1267
medical plans; 1268

(3) Providing appropriate health care information, wellness 1269
programs, and other preventive health care measures to medical 1270
plan beneficiaries; 1271

(4) Coordinating contracts for services related to the life 1272

and medical plans.

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Sec. 101.68. (A) Within Subject to division (D) of this
section, within thirty days of the convening of the first regular
session of the general assembly, each agency required to submit
reports or similar documents to the general assembly pursuant to
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of
the Revised Code shall send written notice to each member of the
general assembly in order to determine whether the member desires
to personally receive the reports or similar documents as they are
made available by the agency. If the member desires to personally
receive the reports or similar documents as they become available,
the member shall send a written request to the agency within
thirty days of receiving the notice.

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(B) Whenever any statute or rule requires that a report,
recommendation, or other similar document be submitted to the
general assembly under a law not cited in division (A) of this
section, to the members of the general assembly, to one house of
the general assembly, or to the members of one house of the
general assembly, the requirement shall be fulfilled by the
submission of a copy of the report, recommendation, or document to
the director of the legislative service commission, the president
of the senate, the minority leader of the senate, the speaker of
the house of representatives, and the minority leader of the house
of representatives if both houses of the general assembly or their
members are specified, or to the director of the legislative
service commission, the president of the senate, and the minority
leader of the senate if only the senate or its members are
specified, or to the director of the legislative service
commission, the speaker of the house of representatives, and the
minority leader of the house of representatives if only the house
of representatives or its members are specified. This division

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does not apply to items required to be distributed to members of
the general assembly pursuant to section 103.14, 149.04, 149.07,
or 149.17 of the Revised Code.

(C) Each month the legislative service commission shall
provide to each member of the senate and to each member of the
house of representatives a list of all reports, recommendations,
and documents submitted to the officers of the general assembly
under division (B) of this section. The list shall include a short
and accurate description of the content, length, and form of each
report, recommendation, or document submitted, as well as a
statement setting forth the number printed, if applicable, and the
cost of preparation. Each member may request from the legislative
service commission a copy of any report, recommendation, or
document on the list, and the legislative service commission shall
comply with any such request.

(D) Notwithstanding any provision of the Revised Code to the
contrary, whenever any statute or rule requires that an agency
submit a report, recommendation, or other similar document to the
general assembly or otherwise as described in division (B) of this
section in a paper, book, or other hard copy format, the report,
recommendation, or other document, to the extent technologically
feasible, shall be submitted to the general assembly or otherwise
as described in division (B) of this section through electronic
means, rather than in the hard copy format, and shall be displayed
by the agency on a web site it maintains.

Sec. 102.01. As used in this chapter:

(A) "Compensation" means money, thing of value, or financial
benefit. "Compensation" does not include reimbursement for actual
and necessary expenses incurred in the performance of official
duties.

(B) "Public official or employee" means any person who is 1334
elected or appointed to an office or is an employee of any public 1335
agency. "Public official or employee" does not include a person 1336
elected or appointed to the office of precinct, ward, or district 1337
committee member under section 3517.03 of the Revised Code, any 1338
presidential elector, or any delegate to a national convention. 1339
"Public official or employee" does not include a person who is a 1340
teacher, instructor, professor, or other kind of educator whose 1341
position does not involve the performance of, or authority to 1342
perform, administrative or supervisory functions. 1343

(C) "Public agency" means the general assembly, all courts, 1344
any department, division, institution, board, commission, 1345
authority, bureau, or other instrumentality of the state, or a 1346
county, city, village, or township, the five state retirement 1347
systems, or any other governmental entity. "Public agency" does 1348
not include a department, division, institution, board, 1349
commission, authority, or other instrumentality of the state or a 1350
county, municipal corporation, township, or other governmental 1351
entity that functions exclusively for cultural, educational, 1352
historical, humanitarian, advisory, or research purposes; that 1353
does not expend more than ten thousand dollars per calendar year, 1354
excluding salaries and wages of employees; and whose members are 1355
uncompensated. 1356

(D) "Immediate family" means a spouse residing in the 1357
person's household and any dependent child. 1358

(E) "Income" includes gross income as defined and used in the 1359
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 1360
amended, interest and dividends on obligations or securities of 1361
any state or of any political subdivision or authority of any 1362
state or political subdivision, and interest or dividends on 1363
obligations of any authority, commission, or instrumentality of 1364
the United States. 1365

(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:	1366
(1) For matters relating to members of the general assembly, employees of the general assembly, employees of the legislative service commission, <u>employees of the capitol square review and advisory board</u> , and candidates for the office of member of the general assembly, the joint legislative ethics committee;	1367
(2) For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court;	1368
(3) For matters relating to all other persons, the Ohio ethics commission.	1369
(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.	1370
(H) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or similar gathering. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to the public official's or employee's office or position of employment.	1371
(I) "Employer" means any person who, directly or indirectly, engages an executive agency lobbyist or legislative agent.	1372
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(J) "Executive agency decision," "executive agency lobbyist," 1396
and "executive agency lobbying activity" have the same meanings as 1397
in section 121.60 of the Revised Code. 1398

(K) "Legislation," "legislative agent," "financial 1399
transaction," and "actively advocate" have the same meanings as in 1400
section 101.70 of the Revised Code. 1401

(L) "Expenditure" has the same meaning as in section 101.70 1402
of the Revised Code when used in relation to activities of a 1403
legislative agent, and the same meaning as in section 121.60 of 1404
the Revised Code when used in relation to activities of an 1405
executive agency lobbyist. 1406

Sec. 105.41. (A) There is hereby created the capitol square 1407
review and advisory board, consisting of thirteen members as 1408
follows: 1409

(1) Two members of the senate, appointed by the president of 1410
the senate, both of whom shall not be members of the same 1411
political party; 1412

(2) Two members of the house of representatives, appointed by 1413
the speaker of the house of representatives, both of whom shall 1414
not be members of the same political party; 1415

(3) Five members appointed by the governor, with the advice 1416
and consent of the senate, not more than three of whom shall be 1417
members of the same political party, one of whom shall represent 1418
the office of the state architect and engineer, one of whom shall 1419
represent the Ohio arts council, one of whom shall represent the 1420
Ohio historical society, one of whom shall represent the Ohio 1421
building authority, and one of whom shall represent the public at 1422
large; 1423

(4) One member, who shall be a former president of the 1424
senate, appointed by the current president of the senate. If the 1425

current president of the senate, in the current president's 1426
discretion, decides for any reason not to make the appointment or 1427
if no person is eligible or available to serve, the seat shall 1428
remain vacant. 1429

(5) One member, who shall be a former speaker of the house of 1430
representatives, appointed by the current speaker of the house of 1431
representatives. If the current speaker of the house of 1432
representatives, in the current speaker's discretion, decides for 1433
any reason not to make the appointment or if no person is eligible 1434
or available to serve, the seat shall remain vacant. 1435

(6) The clerk of the senate and the clerk of the house of 1436
representatives. 1437

(B) Terms of office of each appointed member of the board 1438
shall be for three years, except that members of the general 1439
assembly appointed to the board shall be members of the board only 1440
so long as they are members of the general assembly. Each member 1441
shall hold office from the date of the member's appointment until 1442
the end of the term for which the member was appointed. In case of 1443
a vacancy occurring on the board, the president of the senate, the 1444
speaker of the house of representatives, or the governor, as the 1445
case may be, shall in the same manner prescribed for the regular 1446
appointment to the commission, fill the vacancy by appointing a 1447
member. Any member appointed to fill a vacancy occurring prior to 1448
the expiration of the term for which the member's predecessor was 1449
appointed shall hold office for the remainder of the term. Any 1450
appointed member shall continue in office subsequent to the 1451
expiration date of the member's term until the member's successor 1452
takes office, or until a period of sixty days has elapsed, 1453
whichever occurs first. 1454

(C) The board shall hold meetings in a manner and at times 1455
prescribed by the rules adopted by the board. A majority of the 1456

board constitutes a quorum, and no action shall be taken by the
board unless approved by at least six members or by at least seven
members if a person is appointed under division (A)(4) or (5) of
this section. At its first meeting, the board shall adopt rules
for the conduct of its business and the election of its officers,
and shall organize by selecting a chairperson and other officers
as it considers necessary. Board members shall serve without
compensation but shall be reimbursed for actual and necessary
expenses incurred in the performance of their duties.

(D) The board may do any of the following:

(1) Employ or hire on a consulting basis professional,
technical, and clerical employees as are necessary for the
performance of its duties;

(2) Hold public hearings at times and places as determined by
the board;

(3) Adopt, amend, or rescind rules necessary to accomplish
the duties of the board as set forth in this section;

(4) Sponsor, conduct, and support such social events as the
board may authorize and consider appropriate for the employees of
the board, employees and members of the general assembly,
employees of persons under contract with the board or otherwise
engaged to perform services on the premises of capitol square, or
other persons as the board may consider appropriate. Subject to
the requirements of Chapter 4303. of the Revised Code, the board
may provide beer, wine, and intoxicating liquor, with or without
charge, for those events and may use funds only from the sale of
goods and services fund to purchase the beer, wine, and
intoxicating liquor the board provides.

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

(1) Have sole authority to coordinate and approve any

improvements, additions, and renovations that are made to the
capitol square. The improvements shall include, but not be limited
to, the placement of monuments and sculpture on the capitol
grounds.

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(2) Subject to section 3353.07 of the Revised Code, operate
the capitol square, and have sole authority to regulate all uses
of the capitol square. The uses shall include, but not be limited
to, the casual and recreational use of the capitol square.

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(3) Employ, with the approval of the president of the senate
and the speaker of the house of representatives, the executive
director of the board; fix the compensation of and prescribe the
duties of the executive director; and employ, fix the compensation
of, and prescribe the duties of ~~the executive director of the
board and~~ other employees the board considers necessary for the
performance of its powers and duties;

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(4) Establish and maintain the capitol collection trust. The
capitol collection trust shall consist of furniture, antiques, and
other items of personal property that the board shall store in
suitable facilities until they are ready to be placed in the
capitol square.

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(5) Perform repair, construction, contracting, purchasing,
maintenance, supervisory, and operating activities the board
determines are necessary for the operation and maintenance of the
capitol square;

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(6) Maintain and preserve the capitol square, in accordance
with guidelines issued by the United States secretary of the
interior for application of the secretary's standards for
rehabilitation adopted in 36 C.F.R. part 67.

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(F)(1) The board shall lease capital facilities improved or
financed by the Ohio building authority pursuant to Chapter 152.
of the Revised Code for the use of the board, and may enter into

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any other agreements with the authority ancillary to improvement, 1518
financing, or leasing of those capital facilities, including, but 1519
not limited to, any agreement required by the applicable bond 1520
proceedings authorized by Chapter 152. of the Revised Code. Any 1521
lease of capital facilities authorized by this section shall be 1522
governed by division (D) of section 152.24 of the Revised Code. 1523

(2) Fees, receipts, and revenues received by the board from 1524
the state underground parking garage constitute available receipts 1525
as defined in section 152.09 of the Revised Code, and may be 1526
pledged to the payment of bond service charges on obligations 1527
issued by the Ohio building authority pursuant to Chapter 152. of 1528
the Revised Code to improve or finance capital facilities useful 1529
to the board. The authority may, with the consent of the board, 1530
provide in the bond proceedings for a pledge of all or a portion 1531
of those fees, receipts, and revenues as the authority determines. 1532
The authority may provide in the bond proceedings or by separate 1533
agreement with the board for the transfer of those fees, receipts, 1534
and revenues to the appropriate bond service fund or bond service 1535
reserve fund as required to pay the bond service charges when due, 1536
and any such provision for the transfer of those fees, receipts, 1537
and revenues shall be controlling notwithstanding any other 1538
provision of law pertaining to those fees, receipts, and revenues. 1539

(3) All moneys received by the treasurer of state on account 1540
of the board and required by the applicable bond proceedings or by 1541
separate agreement with the board to be deposited, transferred, or 1542
credited to the bond service fund or bond service reserve fund 1543
established by the bond proceedings shall be transferred by the 1544
treasurer of state to such fund, whether or not it is in the 1545
custody of the treasurer of state, without necessity for further 1546
appropriation, upon receipt of notice from the Ohio building 1547
authority as prescribed in the bond proceedings. 1548

(G) All fees, receipts, and revenues received by the board 1549

from the state underground parking garage shall be deposited into 1550
the state treasury to the credit of the underground parking garage 1551
operating fund, which is hereby created, to be used for the 1552
purposes specified in division (F) of this section and for the 1553
operation and maintenance of the garage. All investment earnings 1554
of the fund shall be credited to the fund. 1555

(H) All donations received by the board shall be deposited 1556
into the state treasury to the credit of the capitol square 1557
renovation gift fund, which is hereby created. The fund shall be 1558
used by the board as follows: 1559

(1) To provide part or all of the funding related to 1560
construction, goods, or services for the renovation of the capitol 1561
square; 1562

(2) To purchase art, antiques, and artifacts for display at 1563
the capitol square; 1564

(3) To award contracts or make grants to organizations for 1565
educating the public regarding the historical background and 1566
governmental functions of the capitol square. Chapters 125., 127., 1567
and 153. and section 3517.13 of the Revised Code do not apply to 1568
purchases made exclusively from the fund, notwithstanding anything 1569
to the contrary in those chapters or that section. All investment 1570
earnings of the fund shall be credited to the fund. 1571

(I) Except as provided in divisions (G), (H), and (J) of this 1572
section, all fees, receipts, and revenues received by the board 1573
shall be deposited into the state treasury to the credit of the 1574
sale of goods and services fund, which is hereby created. Money 1575
credited to the fund shall be used solely to pay costs of the 1576
board other than those specified in divisions (F) and (G) of this 1577
section. All investment earnings of the fund shall be credited to 1578
the fund. 1579

(J) There is hereby created in the state treasury the capitol 1580

square improvement fund, to be used by the board to pay 1581
construction, renovation, and other costs related to the capitol 1582
square for which money is not otherwise available to the board. 1583
Whenever the board determines that there is a need to incur those 1584
costs and that the unencumbered, unobligated balance to the credit 1585
of the underground parking garage operating fund exceeds the 1586
amount needed for the purposes specified in division (F) of this 1587
section and for the operation and maintenance of the garage, the 1588
board may request the director of budget and management to 1589
transfer from the underground parking garage operating fund to the 1590
capitol square improvement fund the amount needed to pay such 1591
construction, renovation, or other costs. The director then shall 1592
transfer the amount needed from the excess balance of the 1593
underground parking garage operating fund. 1594

(K) As the operation and maintenance of the capitol square 1595
constitute essential government functions of a public purpose, the 1596
board shall not be required to pay taxes or assessments upon the 1597
square, upon any property acquired or used by the board under this 1598
section, or upon any income generated by the operation of the 1599
square. 1600

(L) As used in this section, "capitol square" means the 1601
capitol building, senate building, capitol atrium, capitol 1602
grounds, and the state underground parking garage. 1603

(M) The capitol annex shall be known as the senate building. 1604

Sec. 108.05. (A) The lieutenant governor shall be a member of 1605
the governor's cabinet and shall preside at its meetings in the 1606
absence of the governor. 1607

(B) The governor may appoint the lieutenant governor as an 1608
administrative department head listed in section 121.03 of the 1609
Revised Code, ~~as director of the office of criminal justice~~ 1610

~~services pursuant to section 181.52 of the Revised Code, as the~~ 1611
governor's representative on any board, agency, committee, or 1612
commission of which the governor is a member and has the authority 1613
to appoint a representative, or in an advisory capacity to any 1614
nonelective board, agency, committee, or commission in the 1615
executive department or may give the lieutenant governor any 1616
special assignment as the governor considers in the interest of 1617
the state. 1618

(C) When carrying out any of the functions described in 1619
division (B) of this section, the lieutenant governor shall be 1620
reimbursed from funds of the particular authority for necessary 1621
expenses incurred in the conduct of authority business. 1622

Sec. 109.57. (A)(1) The superintendent of the bureau of 1623
criminal identification and investigation shall procure from 1624
wherever procurable and file for record photographs, pictures, 1625
descriptions, fingerprints, measurements, and other information 1626
that may be pertinent of all persons who have been convicted of 1627
committing within this state a felony, any crime constituting a 1628
misdemeanor on the first offense and a felony on subsequent 1629
offenses, or any misdemeanor described in division (A)(1)(a) of 1630
section 109.572 of the Revised Code, of all children under 1631
eighteen years of age who have been adjudicated delinquent 1632
children for committing within this state an act that would be a 1633
felony or an offense of violence if committed by an adult or who 1634
have been convicted of or pleaded guilty to committing within this 1635
state a felony or an offense of violence, and of all well-known 1636
and habitual criminals. The person in charge of any county, 1637
multicounty, municipal, municipal-county, or multicounty-municipal 1638
jail or workhouse, community-based correctional facility, halfway 1639
house, alternative residential facility, or state correctional 1640
institution and the person in charge of any state institution 1641
having custody of a person suspected of having committed a felony, 1642

any crime constituting a misdemeanor on the first offense and a 1643
felony on subsequent offenses, or any misdemeanor described in 1644
division (A)(1)(a) of section 109.572 of the Revised Code or 1645
having custody of a child under eighteen years of age with respect 1646
to whom there is probable cause to believe that the child may have 1647
committed an act that would be a felony or an offense of violence 1648
if committed by an adult shall furnish such material to the 1649
superintendent of the bureau. Fingerprints, photographs, or other 1650
descriptive information of a child who is under eighteen years of 1651
age, has not been arrested or otherwise taken into custody for 1652
committing an act that would be a felony or an offense of violence 1653
if committed by an adult, has not been adjudicated a delinquent 1654
child for committing an act that would be a felony or an offense 1655
of violence if committed by an adult, has not been convicted of or 1656
pleaded guilty to committing a felony or an offense of violence, 1657
and is not a child with respect to whom there is probable cause to 1658
believe that the child may have committed an act that would be a 1659
felony or an offense of violence if committed by an adult shall 1660
not be procured by the superintendent or furnished by any person 1661
in charge of any county, multicounty, municipal, municipal-county, 1662
or multicounty-municipal jail or workhouse, community-based 1663
correctional facility, halfway house, alternative residential 1664
facility, or state correctional institution, except as authorized 1665
in section 2151.313 of the Revised Code. 1666

(2) Every clerk of a court of record in this state, other 1667
than the supreme court or a court of appeals, shall send to the 1668
superintendent of the bureau a weekly report containing a summary 1669
of each case involving a felony, involving any crime constituting 1670
a misdemeanor on the first offense and a felony on subsequent 1671
offenses, involving a misdemeanor described in division (A)(1)(a) 1672
of section 109.572 of the Revised Code, or involving an 1673
adjudication in a case in which a child under eighteen years of 1674
age was alleged to be a delinquent child for committing an act 1675

that would be a felony or an offense of violence if committed by
an adult. The clerk of the court of common pleas shall include in
the report and summary the clerk sends under this division all
information described in divisions (A)(2)(a) to (f) of this
section regarding a case before the court of appeals that is
served by that clerk. The summary shall be written on the standard
forms furnished by the superintendent pursuant to division (B) of
this section and shall include the following information:

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

(b) The style and number of the case;

(c) The date of arrest;

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

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

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

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

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

(4) The superintendent shall carry out Chapter 2950. of the

Revised Code with respect to the registration of persons who are
convicted of or plead guilty to either a sexually oriented offense
that is not a registration-exempt sexually oriented offense or a
child-victim oriented offense and with respect to all other duties
imposed on the bureau under that chapter.

(5) The bureau shall perform centralized recordkeeping
functions for criminal history records and services in this state
for purposes of the national crime prevention and privacy compact
set forth in section 109.571 of the Revised Code and is the
criminal history record repository as defined in that section for
purposes of that compact. The superintendent or the
superintendent's designee is the compact officer for purposes of
that compact and shall carry out the responsibilities of the
compact officer specified in that compact.

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

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

and may establish and operate a statewide communications network 1771
to gather and disseminate information, data, and statistics for 1772
the use of law enforcement agencies. The superintendent may 1773
gather, store, retrieve, and disseminate information, data, and 1774
statistics that pertain to children who are under eighteen years 1775
of age and that are gathered pursuant to sections 109.57 to 109.61 1776
of the Revised Code together with information, data, and 1777
statistics that pertain to adults and that are gathered pursuant 1778
to those sections. In addition to any other authorized use of 1779
information, data, and statistics of that nature, the 1780
superintendent or the superintendent's designee may provide and 1781
exchange the information, data, and statistics pursuant to the 1782
national crime prevention and privacy compact as described in 1783
division (A)(5) of this section. 1784

(D) The information and materials furnished to the 1785
superintendent pursuant to division (A) of this section and 1786
information and materials furnished to any board or person under 1787
division (F) or (G) of this section are not public records under 1788
section 149.43 of the Revised Code. 1789

(E) The attorney general shall adopt rules, in accordance 1790
with Chapter 119. of the Revised Code, setting forth the procedure 1791
by which a person may receive or release information gathered by 1792
the superintendent pursuant to division (A) of this section. A 1793
reasonable fee may be charged for this service. If a temporary 1794
employment service submits a request for a determination of 1795
whether a person the service plans to refer to an employment 1796
position has been convicted of or pleaded guilty to an offense 1797
listed in division (A)(1), (3), (4), (5), or (6) of section 1798
109.572 of the Revised Code, the request shall be treated as a 1799
single request and only one fee shall be charged. 1800

(F)(1) As used in division (F)(2) of this section, "head 1801
start agency" means an entity in this state that has been approved 1802

to be an agency for purposes of subchapter II of the "Community
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831,
as amended.

(2)(a) In addition to or in conjunction with any request that
is required to be made under section 109.572, 2151.86, 3301.32,
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081,
5126.28, 5126.281, or 5153.111 or division (F) of section 3310.11
of the Revised Code, the board of education of any school
district; the director of mental retardation and developmental
disabilities; any county board of mental retardation and
developmental disabilities; any entity under contract with a
county board of mental retardation and developmental disabilities;
the chief administrator of any chartered nonpublic school; the
chief administrator of any registered private school; the chief
administrator of any home health agency; the chief administrator
of or person operating any child day-care center, type A family
day-care home, or type B family day-care home licensed or
certified under Chapter 5104. of the Revised Code; the
administrator of any type C family day-care home certified
pursuant to Section 1 of Sub. H.B. 62 of the 121st general
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general
assembly; the chief administrator of any head start agency; or the
executive director of a public children services agency may
request that the superintendent of the bureau investigate and
determine, with respect to any individual who has applied for
employment in any position after October 2, 1989, or any
individual wishing to apply for employment with a board of
education may request, with regard to the individual, 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, upon request of the person, board, or

entity requesting information, also shall request from the federal 1835
bureau of investigation any criminal records it has pertaining to 1836
that individual. The superintendent or the superintendent's 1837
designee also may request criminal history records from other 1838
states or the federal government pursuant to the national crime 1839
prevention and privacy compact set forth in section 109.571 of the 1840
Revised Code. Within thirty days of the date that the 1841
superintendent receives a request, the superintendent shall send 1842
to the board, entity, or person a report of any information that 1843
the superintendent determines exists, including information 1844
contained in records that have been sealed under section 2953.32 1845
of the Revised Code, and, within thirty days of its receipt, shall 1846
send the board, entity, or person a report of any information 1847
received from the federal bureau of investigation, other than 1848
information the dissemination of which is prohibited by federal 1849
law. 1850

(b) When a board of education or a registered private school 1851
is required to receive information under this section as a 1852
prerequisite to employment of an individual pursuant to section 1853
3319.39 or division (F) of section 3310.11 of the Revised Code, it 1854
may accept a certified copy of records that were issued by the 1855
bureau of criminal identification and investigation and that are 1856
presented by an individual applying for employment with the 1857
district in lieu of requesting that information itself. In such a 1858
case, the board or school shall accept the certified copy issued 1859
by the bureau in order to make a photocopy of it for that 1860
individual's employment application documents and shall return the 1861
certified copy to the individual. In a case of that nature, a 1862
district or school only shall accept a certified copy of records 1863
of that nature within one year after the date of their issuance by 1864
the bureau. 1865

(3) The state board of education may request, with respect to 1866

any individual who has applied for employment after October 2, 1867
1989, in any position with the state board or the department of 1868
education, any information that a school district board of 1869
education is authorized to request under division (F)(2) of this 1870
section, and the superintendent of the bureau shall proceed as if 1871
the request has been received from a school district board of 1872
education under division (F)(2) of this section. 1873

(4) When the superintendent of the bureau receives a request 1874
for information under section 3319.291 of the Revised Code, the 1875
superintendent shall proceed as if the request has been received 1876
from a school district board of education under division (F)(2) of 1877
this section. 1878

(5) When a recipient of ~~an OhioReads~~ a classroom ~~or community~~ 1879
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 1880
the Revised Code ~~or an entity approved by the OhioReads council~~ 1881
requests, with respect to any individual who applies to 1882
participate in providing any program or service ~~through an entity~~ 1883
~~approved by the OhioReads council~~ ~~or~~ funded in whole or in part by 1884
the grant, the information that a school district board of 1885
education is authorized to request under division (F)(2)(a) of 1886
this section, the superintendent of the bureau shall proceed as if 1887
the request has been received from a school district board of 1888
education under division (F)(2)(a) of this section. 1889

(G) In addition to or in conjunction with any request that is 1890
required to be made under section 173.41, 3701.881, 3712.09, 1891
3721.121, or 3722.151 of the Revised Code with respect to an 1892
individual who has applied for employment in a position that 1893
involves providing direct care to an older adult, the chief 1894
administrator of a PASSPORT agency that provides services through 1895
the PASSPORT program created under section 173.40 of the Revised 1896
Code, home health agency, hospice care program, home licensed 1897
under Chapter 3721. of the Revised Code, adult day-care program 1898

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. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. 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.

(J) As used in this section, "registered private school" means a nonpublic school registered with the superintendent of

public instruction under section 3310.11 of the Revised Code to 1931
participate in the educational choice scholarship program. 1932

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1933
section 121.08, 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 1934
5104.013, or 5153.111 of the Revised Code, a completed form 1935
prescribed pursuant to division (C)(1) of this section, and a set 1936
of fingerprint impressions obtained in the manner described in 1937
division (C)(2) of this section, the superintendent of the bureau 1938
of criminal identification and investigation shall conduct a 1939
criminal records check in the manner described in division (B) of 1940
this section to determine whether any information exists that 1941
indicates that the person who is the subject of the request 1942
previously has been convicted of or pleaded guilty to any of the 1943
following: 1944

(a) A violation of section 2903.01, 2903.02, 2903.03, 1945
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1946
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1947
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1948
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1949
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1950
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1951
2925.06, or 3716.11 of the Revised Code, felonious sexual 1952
penetration in violation of former section 2907.12 of the Revised 1953
Code, a violation of section 2905.04 of the Revised Code as it 1954
existed prior to July 1, 1996, a violation of section 2919.23 of 1955
the Revised Code that would have been a violation of section 1956
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1957
had the violation been committed prior to that date, or a 1958
violation of section 2925.11 of the Revised Code that is not a 1959
minor drug possession offense; 1960

(b) A violation of an existing or former law of this state, 1961

any other state, or the United States that is substantially 1962
equivalent to any of the offenses listed in division (A)(1)(a) of 1963
this section. 1964

(2) On receipt of a request pursuant to section 5123.081 of 1965
the Revised Code with respect to an applicant for employment in 1966
any position with the department of mental retardation and 1967
developmental disabilities, pursuant to section 5126.28 of the 1968
Revised Code with respect to an applicant for employment in any 1969
position with a county board of mental retardation and 1970
developmental disabilities, or pursuant to section 5126.281 of the 1971
Revised Code with respect to an applicant for employment in a 1972
direct services position with an entity contracting with a county 1973
board for employment, a completed form prescribed pursuant to 1974
division (C)(1) of this section, and a set of fingerprint 1975
impressions obtained in the manner described in division (C)(2) of 1976
this section, the superintendent of the bureau of criminal 1977
identification and investigation shall conduct a criminal records 1978
check. The superintendent shall conduct the criminal records check 1979
in the manner described in division (B) of this section to 1980
determine whether any information exists that indicates that the 1981
person who is the subject of the request has been convicted of or 1982
pleaded guilty to any of the following: 1983

(a) A violation of section 2903.01, 2903.02, 2903.03, 1984
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1985
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 1986
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 1987
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1988
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 1989
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 1990
2925.03, or 3716.11 of the Revised Code; 1991

(b) An existing or former municipal ordinance or law of this 1992
state, any other state, or the United States that is substantially 1993

equivalent to any of the offenses listed in division (A)(2)(a) of this section. 1994
1995

(3) On receipt of a request pursuant to section 173.41, 1996
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 1997
form prescribed pursuant to division (C)(1) of this section, and a 1998
set of fingerprint impressions obtained in the manner described in 1999
division (C)(2) of this section, the superintendent of the bureau 2000
of criminal identification and investigation shall conduct a 2001
criminal records check with respect to any person who has applied 2002
for employment in a position that involves providing direct care 2003
to an older adult. The superintendent shall conduct the criminal 2004
records check in the manner described in division (B) of this 2005
section to determine whether any information exists that indicates 2006
that the person who is the subject of the request previously has 2007
been convicted of or pleaded guilty to any of the following: 2008

(a) A violation of section 2903.01, 2903.02, 2903.03, 2009
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2010
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2011
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2012
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2013
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2014
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2015
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2016
2925.22, 2925.23, or 3716.11 of the Revised Code; 2017

(b) An existing or former law of this state, any other state, 2018
or the United States that is substantially equivalent to any of 2019
the offenses listed in division (A)(3)(a) of this section. 2020

(4) On receipt of a request pursuant to section 3701.881 of 2021
the Revised Code with respect to an applicant for employment with 2022
a home health agency as a person responsible for the care, 2023
custody, or control of a child, a completed form prescribed 2024

pursuant to division (C)(1) of this section, and a set of
fingerprint impressions obtained in the manner described in
division (C)(2) of this section, the superintendent of the bureau
of criminal identification and investigation shall conduct a
criminal records check. The superintendent shall conduct the
criminal records check in the manner described in division (B) of
this section to determine whether any information exists that
indicates that the person who is the subject of the request
previously has been convicted of or pleaded guilty to any of the
following:

(a) A violation of section 2903.01, 2903.02, 2903.03,
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04,
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 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, 2919.12, 2919.22,
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03,
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a
violation of section 2925.11 of the Revised Code that is not a
minor drug possession offense;

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

(5) On receipt of a request pursuant to section 5111.95 or
5111.96 of the Revised Code with respect to an applicant for
employment with a waiver agency participating in a department of
job and family services administered home and community-based
waiver program or an independent provider participating in a
department administered home and community-based waiver program in
a position that involves providing home and community-based waiver
services to consumers with disabilities, a completed form
prescribed pursuant to division (C)(1) of this section, and a set

of fingerprint impressions obtained in the manner described in 2057
division (C)(2) of this section, the superintendent of the bureau 2058
of criminal identification and investigation shall conduct a 2059
criminal records check. The superintendent shall conduct the 2060
criminal records check in the manner described in division (B) of 2061
this section to determine whether any information exists that 2062
indicates that the person who is the subject of the request 2063
previously has been convicted of or pleaded guilty to any of the 2064
following: 2065

(a) A violation of section 2903.01, 2903.02, 2903.03, 2066
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2067
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2068
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2069
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2070
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2071
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2072
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2073
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2074
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 2075
Revised Code, felonious sexual penetration in violation of former 2076
section 2907.12 of the Revised Code, a violation of section 2077
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 2078
violation of section 2919.23 of the Revised Code that would have 2079
been a violation of section 2905.04 of the Revised Code as it 2080
existed prior to July 1, 1996, had the violation been committed 2081
prior to that date; 2082

(b) An existing or former law of this state, any other state, 2083
or the United States that is substantially equivalent to any of 2084
the offenses listed in division (A)(5)(a) of this section. 2085

(6) On receipt of a request pursuant to section 3701.881 of 2086
the Revised Code with respect to an applicant for employment with 2087
a home health agency in a position that involves providing direct 2088

care to an older adult, a completed form prescribed pursuant to 2089
division (C)(1) of this section, and a set of fingerprint 2090
impressions obtained in the manner described in division (C)(2) of 2091
this section, the superintendent of the bureau of criminal 2092
identification and investigation shall conduct a criminal records 2093
check. The superintendent shall conduct the criminal records check 2094
in the manner described in division (B) of this section to 2095
determine whether any information exists that indicates that the 2096
person who is the subject of the request previously has been 2097
convicted of or pleaded guilty to any of the following: 2098

(a) A violation of section 2903.01, 2903.02, 2903.03, 2099
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2100
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2101
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2102
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2103
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2104
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2105
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2106
2925.22, 2925.23, or 3716.11 of the Revised Code; 2107

(b) An existing or former law of this state, any other state, 2108
or the United States that is substantially equivalent to any of 2109
the offenses listed in division (A)(6)(a) of this section. 2110

(7) When conducting a criminal records check upon a request 2111
pursuant to section 3319.39 of the Revised Code for an applicant 2112
who is a teacher, in addition to the determination made under 2113
division (A)(1) of this section, the superintendent shall 2114
determine whether any information exists that indicates that the 2115
person who is the subject of the request previously has been 2116
convicted of or pleaded guilty to any offense specified in section 2117
3319.31 of the Revised Code. 2118

(8) On a request pursuant to section 2151.86 of the Revised 2119

Code, a completed form prescribed pursuant to division (C)(1) of 2120
this section, and a set of fingerprint impressions obtained in the 2121
manner described in division (C)(2) of this section, the 2122
superintendent of the bureau of criminal identification and 2123
investigation shall conduct a criminal records check in the manner 2124
described in division (B) of this section to determine whether any 2125
information exists that indicates that the person who is the 2126
subject of the request previously has been convicted of or pleaded 2127
guilty to any of the following: 2128

(a) A violation of section 2903.01, 2903.02, 2903.03, 2129
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2130
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2131
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2132
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2133
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2134
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2135
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 2136
violation of section 2905.04 of the Revised Code as it existed 2137
prior to July 1, 1996, a violation of section 2919.23 of the 2138
Revised Code that would have been a violation of section 2905.04 2139
of the Revised Code as it existed prior to July 1, 1996, had the 2140
violation been committed prior to that date, a violation of 2141
section 2925.11 of the Revised Code that is not a minor drug 2142
possession offense, or felonious sexual penetration in violation 2143
of former section 2907.12 of the Revised Code; 2144

(b) A violation of an existing or former law of this state, 2145
any other state, or the United States that is substantially 2146
equivalent to any of the offenses listed in division (A)(8)(a) of 2147
this section. 2148

(9) When conducting a criminal records check on a request 2149
pursuant to section 5104.013 of the Revised Code for a person who 2150
is an owner, licensee, or administrator of a child day-care center 2151

or type A family day-care home or an authorized provider of a 2152
certified type B family day-care home, the superintendent, in 2153
addition to the determination made under division (A)(1) of this 2154
section, shall determine whether any information exists that 2155
indicates that the person has been convicted of or pleaded guilty 2156
to any of the following: 2157

(a) A violation of section 2913.02, 2913.03, 2913.04, 2158
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2159
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2160
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 2161
2921.13, or 2923.01 of the Revised Code, a violation of section 2162
2923.02 or 2923.03 of the Revised Code that relates to a crime 2163
specified in this division or division (A)(1)(a) of this section, 2164
or a second violation of section 4511.19 of the Revised Code 2165
within five years of the date of application for licensure or 2166
certification. 2167

(b) A violation of an existing or former law of this state, 2168
any other state, or the United States that is substantially 2169
equivalent to any of the offenses or violations described in 2170
division (A)(9)(a) of this section. 2171

(10) Not later than thirty days after the date the 2172
superintendent receives the request, completed form, and 2173
fingerprint impressions, the superintendent shall send the person, 2174
board, or entity that made the request any information, other than 2175
information the dissemination of which is prohibited by federal 2176
law, the superintendent determines exists with respect to the 2177
person who is the subject of the request that indicates that the 2178
person previously has been convicted of or pleaded guilty to any 2179
offense listed or described in division (A)(1), (2), (3), (4), 2180
(5), (6), (7), (8), or (9) of this section, as appropriate. The 2181
superintendent shall send the person, board, or entity that made 2182
the request a copy of the list of offenses specified in division 2183

(A)(1), (2), (3), (4), (5), (6), (7), (8), or (9) of this section, 2184
as appropriate. If the request was made under section 3701.881 of 2185
the Revised Code with regard to an applicant who may be both 2186
responsible for the care, custody, or control of a child and 2187
involved in providing direct care to an older adult, the 2188
superintendent shall provide a list of the offenses specified in 2189
divisions (A)(4) and (6) of this section. 2190

(B) The superintendent shall conduct any criminal records 2191
check requested under section 121.08, 173.41, 2151.86, 3301.32, 2192
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 2193
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 2194
or 5153.111 of the Revised Code as follows: 2195

(1) The superintendent shall review or cause to be reviewed 2196
any relevant information gathered and compiled by the bureau under 2197
division (A) of section 109.57 of the Revised Code that relates to 2198
the person who is the subject of the request, including any 2199
relevant information contained in records that have been sealed 2200
under section 2953.32 of the Revised Code; 2201

(2) If the request received by the superintendent asks for 2202
information from the federal bureau of investigation, the 2203
superintendent shall request from the federal bureau of 2204
investigation any information it has with respect to the person 2205
who is the subject of the request and shall review or cause to be 2206
reviewed any information the superintendent receives from that 2207
bureau. 2208

(3) The superintendent or the superintendent's designee may 2209
request criminal history records from other states or the federal 2210
government pursuant to the national crime prevention and privacy 2211
compact set forth in section 109.571 of the Revised Code. 2212

(C)(1) The superintendent shall prescribe a form to obtain 2213
the information necessary to conduct a criminal records check from 2214

any person for whom a criminal records check is required by 2215
section 121.08, 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 2216
3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 2217
5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the 2218
Revised Code. The form that the superintendent prescribes pursuant 2219
to this division may be in a tangible format, in an electronic 2220
format, or in both tangible and electronic formats. 2221

(2) The superintendent shall prescribe standard impression 2222
sheets to obtain the fingerprint impressions of any person for 2223
whom a criminal records check is required by section 121.08, 2224
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 2225
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2226
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any 2227
person for whom a records check is required by any of those 2228
sections shall obtain the fingerprint impressions at a county 2229
sheriff's office, municipal police department, or any other entity 2230
with the ability to make fingerprint impressions on the standard 2231
impression sheets prescribed by the superintendent. The office, 2232
department, or entity may charge the person a reasonable fee for 2233
making the impressions. The standard impression sheets the 2234
superintendent prescribes pursuant to this division may be in a 2235
tangible format, in an electronic format, or in both tangible and 2236
electronic formats. 2237

(3) Subject to division (D) of this section, the 2238
superintendent shall prescribe and charge a reasonable fee for 2239
providing a criminal records check requested under section 121.08, 2240
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 2241
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2242
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 2243
person making a criminal records request under section 121.08, 2244
173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 2245
3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 2246

5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code shall
pay the fee prescribed pursuant to this division. A person making
a request under section 3701.881 of the Revised Code for a
criminal records check for an applicant who may be both
responsible for the care, custody, or control of a child and
involved in providing direct care to an older adult shall pay one
fee for the request.

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

(D) A determination whether any information exists that
indicates that a person previously has been convicted of or
pleaded guilty to any offense listed or described in division
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or
(b), (A)(5)(a) or (b), (A)(6), (A)(7)(a) or (b), (A)(8)(a) or (b),
or (A)(9)(a) or (b) of this section that is made by the
superintendent with respect to information considered in a
criminal records check in accordance with this section is valid
for the person who is the subject of the criminal records check
for a period of one year from the date upon which the
superintendent makes the determination. During the period in which
the determination in regard to a person is valid, if another
request under this section is made for a criminal records check
for that person, the superintendent shall provide the information
that is the basis for the superintendent's initial determination
at a lower fee than the fee prescribed for the initial criminal
records check.

(E) When the superintendent receives a request for
information from a registered private school pursuant to division
(F) of section 3310.11 of the Revised Code, the superintendent

shall proceed as if the request has been received from a school 2279
district board of education under section 3319.39 of the Revised 2280
Code. The superintendent shall apply division (A)(7) of this 2281
section to any such request for an applicant who is a teacher. 2282

(F) As used in this section: 2283

(1) "Criminal records check" means any criminal records check 2284
conducted by the superintendent of the bureau of criminal 2285
identification and investigation in accordance with division (B) 2286
of this section. 2287

(2) "Home and community-based waiver services" and "waiver 2288
agency" have the same meanings as in section 5111.95 of the 2289
Revised Code. 2290

(3) "Independent provider" has the same meaning as in section 2291
5111.96 of the Revised Code. 2292

(4) "Minor drug possession offense" has the same meaning as 2293
in section 2925.01 of the Revised Code. 2294

(5) "Older adult" means a person age sixty or older. 2295

(6) "Registered private school" means a nonpublic school 2296
registered with the superintendent of public instruction under 2297
section 3310.11 of the Revised Code to participate in the 2298
educational choice scholarship program. 2299

Sec. 109.91. (A) There is hereby established within the 2300
office of the attorney general the crime victims assistance 2301
office. 2302

(B) There is hereby established the state victims assistance 2303
advisory committee. The committee shall consist of a chairperson, 2304
to be appointed by the attorney general, ~~four~~ three ex officio 2305
members, and fifteen members to be appointed by the attorney 2306
general as follows: one member who represents the Ohio 2307
victim-witness association; three members who represent local 2308

victim assistance programs, including one from a municipally 2309
operated program and one from a county-operated program; one 2310
member who represents the interests of elderly victims; one member 2311
who is a board member of any statewide or local organization that 2312
exists primarily to aid victims of domestic violence, or who is an 2313
employee of, or counselor for, such an organization; one member 2314
who is an employee or officer of a county probation department or 2315
a probation department operated by the department of 2316
rehabilitation and correction; one member who is a county 2317
prosecuting attorney; one member who is a city law director; one 2318
member who is a county sheriff; one member who is a member or 2319
officer of a township or municipal police department; one member 2320
who is a court of common pleas judge; one member who is a 2321
municipal court judge or county court judge; and two members who 2322
are private citizens and are not government employees. 2323

The committee shall include the following ex officio, 2324
nonvoting members: ~~the chief justice of the supreme court,~~ the 2325
attorney general, one member of the senate to be designated by the 2326
president of the senate, and one member of the house of 2327
representatives to be designated by the speaker of the house. 2328

Members of the committee shall serve without compensation, 2329
but shall be reimbursed for travel and other necessary expenses 2330
that are incurred in the conduct of their official duties as 2331
members of the committee. The chairperson and members of the 2332
committee appointed by the attorney general shall serve at the 2333
pleasure of the attorney general. The ~~chief justice of the supreme~~ 2334
~~court and the~~ attorney general shall serve on the committee until 2335
the end of the term of office that qualified ~~them~~ the attorney 2336
general for membership on the committee. The member of the senate 2337
and the member of the house of representatives shall serve at the 2338
pleasure of the president of the senate and the speaker of the 2339
house of representatives, respectively. 2340

(C) The victims assistance advisory committee shall perform 2341
both of the following duties: 2342

(1) Advise the crime victims assistance office in determining 2343
crime and delinquency victim service needs, determining crime and 2344
delinquency victim policies for the state, and improving and 2345
exercising leadership in the quality of crime and delinquency 2346
victim programs in the state; 2347

(2) Review and recommend to the crime victims assistance 2348
office the victim assistance programs that should be considered 2349
for the receipt of state financial assistance pursuant to section 2350
109.92 of the Revised Code. The financial assistance allocation 2351
recommendations of the committee shall be based on the following 2352
priorities: 2353

(a) Programs in existence on July 1, 1985, shall be given 2354
first priority; 2355

(b) Programs offering or proposing to offer the broadest 2356
range of services and referrals to the community served, including 2357
medical, psychological, financial, educational, vocational, and 2358
legal services that were not in existence on July 1, 1985, shall 2359
be given second priority; 2360

(c) Other qualified programs shall be given last priority. 2361

(D) As used in this section and section 109.92 of the Revised 2362
Code, "victim assistance program" includes, but is not limited to 2363
a program that provides at least one of the following: 2364

(1) Services to victims of any offense of violence or 2365
delinquent act that would be an offense of violence if committed 2366
by an adult; 2367

(2) Financial assistance or property repair services to 2368
victims of crime or delinquent acts; 2369

(3) Assistance to victims of crime or delinquent acts in 2370

judicial proceedings;	2371
(4) Assistance to victims of crime or delinquent acts under the operation of any political subdivision of the state or a branch of the criminal justice system set forth in division (B)(1)(a), (2)(b) , or (3)(c) of section 181.51 <u>5502.61</u> of the Revised Code;	2372 2373 2374 2375 2376
(5) Technical assistance to persons or organizations that provide services to victims of crime or delinquent acts under the operation of a branch of the criminal justice system set forth in divisions <u>division</u> (B)(1)(a), (2)(b) , and (3) or (c) of section 181.51 <u>5502.61</u> of the Revised Code.	2377 2378 2379 2380 2381
A victim assistance program does not include the program for the reparation of crime victims established pursuant to Chapter 2743. of the Revised Code.	2382 2383 2384
Sec. 117.10. The auditor of state shall audit all public offices as provided in this chapter. The auditor of state also may audit the accounts of private institutions, associations, boards, and corporations receiving public money for their use and may require of them annual reports in such form as the auditor of state prescribes.	2385 2386 2387 2388 2389 2390
If the auditor of state performs or contracts for the performance of an audit, including a special audit, of the public employees retirement system, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or Ohio police and fire pension fund, the auditor of state shall make a timely report of the results of the audit to the Ohio retirement study council.	2391 2392 2393 2394 2395 2396 2397
The auditor of state may audit the accounts of any provider as defined in section 5111.06 of the Revised Code, if requested by the department of job and family services.	2398 2399 2400

If a public office has been audited by an agency of the United States government, the auditor of state may, if satisfied that the federal audit has been conducted according to principles and procedures not contrary to those of the auditor of state, use and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

Within thirty days after the creation or dissolution or the winding up of the affairs of any public office, that public office shall notify the auditor of state in writing that this action has occurred.

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

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

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

(3) When conducting an audit under this chapter of a public office that undertakes force account projects, examine the forms and records of a sampling of the force account projects the public office completed since an audit was last conducted, to determine compliance with its force account limits.

(B) If the auditor of state receives a complaint from any

person that a public office has violated the force account limits 2431
established for that office, the auditor of state may conduct an 2432
audit in addition to the audit provided in section 117.11 of the 2433
Revised Code if the auditor of state has reasonable cause to 2434
believe that an additional audit is in the public interest. 2435

(C)(1) If the auditor of state finds that a county, township, 2436
or municipal corporation violated the force account limits 2437
established for that political subdivision, the auditor of state, 2438
in addition to any other action authorized by this chapter, shall 2439
notify the political subdivision that, for a period of one year 2440
from the date of the notification, the force account limits for 2441
the subdivision are reduced as follows: 2442

(a) For a county, the limits shall be ten thousand dollars 2443
per mile for construction or reconstruction of a road and forty 2444
thousand dollars for construction, reconstruction, maintenance, or 2445
repair of a bridge or culvert; 2446

(b) For a township, the limit shall be fifteen thousand 2447
dollars for maintenance and repair of a road or five thousand per 2448
mile for construction or reconstruction of a township road; 2449

(c) For a municipal corporation, the limit shall be ten 2450
thousand dollars for the construction, reconstruction, widening, 2451
resurfacing, or repair of a street or other public way. 2452

(2) If the auditor of state finds that a county, township, or 2453
municipal corporation violated the force account limits 2454
established for that political subdivision a second or subsequent 2455
time, the auditor of state, in addition to any other action 2456
authorized by this chapter, shall notify the political subdivision 2457
that, for a period of two years from the date of the notification, 2458
the force account limits for the subdivision are reduced in 2459
accordance with division (C)(1)(a), (b), or (c) of this section. 2460

(3) If the auditor of state finds that a county, township, or 2461

municipal corporation violated the force account limits 2462
established for that political subdivision a third or subsequent 2463
time, the auditor of state shall certify to the tax commissioner 2464
an amount the auditor of state determines to be twenty per cent of 2465
the total cost of the force account project that is the basis of 2466
the violation. Upon receipt of this certification, the tax 2467
commissioner shall withhold the certified amount from any funds 2468
under the tax commissioner's control that are due or payable to 2469
that political subdivision. The tax commissioner shall promptly 2470
deposit this withheld amount to the credit of the local 2471
transportation improvement program fund created by section 164.14 2472
of the Revised Code. 2473

If the tax commissioner determines that no funds are due and 2474
payable to the violating political subdivision or that 2475
insufficient amounts of such funds are available to cover the 2476
entire certified amount, the tax commissioner shall withhold and 2477
deposit to the credit of the local transportation improvement 2478
program fund any amount available and certify the remaining amount 2479
to be withheld to the county auditor of the county in which the 2480
political subdivision is located. The county auditor shall 2481
withhold from that political subdivision any amount, up to that 2482
certified by the tax commissioner, that is available from any 2483
funds under the county auditor's control, that is due or payable 2484
to that political subdivision, and that can be lawfully withheld. 2485
The county auditor shall promptly pay that withheld amount to the 2486
tax commissioner for deposit into the local transportation 2487
improvement program fund. 2488

The payments required under division (C)(3) of this section 2489
are in addition to the force account limit reductions described in 2490
division (C)(2) of this section and also are in addition to any 2491
other action authorized by this chapter. 2492

(D) If the auditor of state finds that a county, township, or 2493

municipal corporation violated its force account limits when 2494
participating in a joint force account project, the auditor of 2495
state shall impose the reduction in force account limits under 2496
division (C) of this section on all entities participating in the 2497
joint project. 2498

(E) As used in this section, "force account limits" means any 2499
of the following, as applicable: 2500

(1) For a county, the amounts established in section 5543.19 2501
of the Revised Code as adjusted under section 117.162 of the 2502
Revised Code; 2503

(2) For a township, the amounts established in section 2504
5575.01 of the Revised Code as adjusted under section 117.162 of 2505
the Revised Code; 2506

(3) For a municipal corporation, the amount established in 2507
section 723.52 of the Revised Code as adjusted under section 2508
117.162 of the Revised Code; 2509

(4) For the department of transportation, the amount 2510
established in section 5517.02 of the Revised Code as adjusted 2511
under section 117.162 of the Revised Code. 2512

Sec. 117.162. (A) Not later than the thirty-first day of 2513
January each year, the auditor of state shall adjust county, 2514
township, municipal, and department of transportation force 2515
account limits by the percentage increase, if any, in the consumer 2516
price index over the twelve-month period that ended on the last 2517
day of December of the immediately preceding year, rounded to the 2518
nearest one-tenth of one per cent. The auditor of state shall post 2519
the new force account limits on the auditor of state's internet 2520
site on the worldwide web before the thirty-first day of January 2521
each year. Such limits shall be effective for the following 2522
twelve-month period beginning on the first day of February. 2523

<u>(B) As used in this section:</u>	2524
<u>(1) "Consumer price index" means the consumer price index prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: all items, 1982-1984=100), or, if that index is no longer published, a generally available comparable index.</u>	2525 2526 2527 2528 2529
<u>(2) "Force account limits" has the same meaning as in section 117.16 of the Revised Code.</u>	2530 2531
Sec. 120.06. (A)(1) The state public defender, when designated by the court or requested by a county public defender or joint county public defender, may provide legal representation in all courts throughout the state to indigent adults and juveniles who are charged with the commission of an offense or act for which the penalty or any possible adjudication includes the potential loss of liberty.	2532 2533 2534 2535 2536 2537 2538
(2) The state public defender may provide legal representation to any indigent person who, while incarcerated in any state correctional institution, is charged with a felony offense, for which the penalty or any possible adjudication that may be imposed by a court upon conviction includes the potential loss of liberty.	2539 2540 2541 2542 2543 2544
(3) The state public defender may provide legal representation to any person incarcerated in any correctional institution of the state, in any matter in which the person asserts the person is unlawfully imprisoned or detained.	2545 2546 2547 2548
(4) The state public defender, in any case in which the state public defender has provided legal representation or is requested to do so by a county public defender or joint county public defender, may provide legal representation on appeal.	2549 2550 2551 2552
(5) The state public defender, when designated by the court	2553

or requested by a county public defender, joint county public 2554
defender, or the director of rehabilitation and correction, shall 2555
provide legal representation in parole and probation revocation 2556
matters or matters relating to the revocation of community control 2557
or post-release control under a community control sanction or 2558
post-release control sanction, unless the state public defender 2559
finds that the alleged parole or probation violator or alleged 2560
violator of a community control sanction or post-release control 2561
sanction has the financial capacity to retain the alleged 2562
violator's own counsel. 2563

(6) If the state public defender contracts with a county 2564
public defender commission, a joint county public defender 2565
commission, or a board of county commissioners for the provision 2566
of services, under authority of division (C)(7) of section 120.04 2567
of the Revised Code, the state public defender shall provide legal 2568
representation in accordance with the contract. 2569

(B) The state public defender shall not be required to 2570
prosecute any appeal, postconviction remedy, or other proceeding 2571
pursuant to division (A)(3), (4), or (5) of this section, unless 2572
the state public defender first is satisfied that there is 2573
arguable merit to the proceeding. 2574

(C) A court may appoint counsel or allow an indigent person 2575
to select the indigent's own personal counsel to assist the state 2576
public defender as co-counsel when the interests of justice so 2577
require. When co-counsel is appointed to assist the state public 2578
defender, the co-counsel shall receive any compensation that the 2579
court may approve, not to exceed the amounts provided for in 2580
section 2941.51 of the Revised Code. 2581

(D)(1) When the state public defender is designated by the 2582
court or requested by a county public defender or joint county 2583
public defender to provide legal representation for an indigent 2584

person in any case, other than pursuant to a contract entered into 2585
under authority of division (C)(7) of section 120.04 of the 2586
Revised Code, the state public defender shall send to the county 2587
in which the case is filed ~~an itemized a bill for fifty per cent~~ 2588
~~of detailing~~ the actual cost of the representation ~~that separately~~ 2589
itemizes legal fees and expenses. The county, upon receipt of an 2590
itemized bill from the state public defender pursuant to this 2591
division, shall ~~pay fifty per cent of the actual cost of the legal~~ 2592
~~representation as set forth in the itemized bill.~~ pay the state 2593
public defender each of the following amounts: 2594

(a) For the amount identified as legal fees in the itemized 2595
bill, one hundred per cent of the amount identified as legal fees 2596
less the state reimbursement rate as calculated by the state 2597
public defender pursuant to section 120.34 of the Revised Code for 2598
the month the case terminated, as set forth in the itemized bill; 2599

(b) For the amount identified as expenses in the itemized 2600
bill, one hundred per cent. 2601

(2) Upon payment of the itemized bill under division (D)(1) 2602
of this section, the county may submit the cost of the expenses, 2603
excluding legal fees, to the state public defender for 2604
reimbursement pursuant to section 120.33 of the Revised Code. 2605

(3) When the state public defender provides investigation or 2606
mitigation services to private appointed counsel or to a county or 2607
joint county public defender as approved by the appointing court, 2608
other than pursuant to a contract entered into under authority of 2609
division (C)(7) of section 120.04 of the Revised Code, the state 2610
public defender shall send to the county in which the case is 2611
filed a bill itemizing the actual cost of the services provided. 2612
The county, upon receipt of an itemized bill from the state public 2613
defender pursuant to this division, shall pay one hundred per cent 2614
of the amount as set forth in the itemized bill. Upon payment of 2615
the itemized bill received pursuant to this division, the county 2616

may submit the cost of the investigation and mitigation services 2617
to the state public defender for reimbursement pursuant to section 2618
120.33 of the Revised Code. 2619

(4) There is hereby created in the state treasury the county 2620
representation fund for the deposit of moneys received from 2621
counties under this division. All moneys credited to the fund 2622
shall be used by the state public defender to provide legal 2623
representation for indigent persons when designated by the court 2624
or requested by a county or joint county public defender or to 2625
provide investigation or mitigation services, including 2626
investigation or mitigation services to private appointed counsel 2627
or a county or joint county public defender, as approved by the 2628
court. 2629

(E)(1) Notwithstanding any contrary provision of sections 2630
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 2631
that pertains to representation by the attorney general, an 2632
assistant attorney general, or special counsel of an officer or 2633
employee, as defined in section 109.36 of the Revised Code, or of 2634
an entity of state government, the state public defender may elect 2635
to contract with, and to have the state pay pursuant to division 2636
(E)(2) of this section for the services of, private legal counsel 2637
to represent the Ohio public defender commission, the state public 2638
defender, assistant state public defenders, other employees of the 2639
commission or the state public defender, and attorneys described 2640
in division (C) of section 120.41 of the Revised Code in a 2641
malpractice or other civil action or proceeding that arises from 2642
alleged actions or omissions related to responsibilities derived 2643
pursuant to this chapter, or in a civil action that is based upon 2644
alleged violations of the constitution or statutes of the United 2645
States, including section 1983 of Title 42 of the United States 2646
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 2647
arises from alleged actions or omissions related to 2648

responsibilities derived pursuant to this chapter, if the state
public defender determines, in good faith, that the defendant in
the civil action or proceeding did not act manifestly outside the
scope of the defendant's employment or official responsibilities,
with malicious purpose, in bad faith, or in a wanton or reckless
manner. If the state public defender elects not to contract
pursuant to this division for private legal counsel in a civil
action or proceeding, then, in accordance with sections 109.02,
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the
attorney general shall represent or provide for the representation
of the Ohio public defender commission, the state public defender,
assistant state public defenders, other employees of the
commission or the state public defender, or attorneys described in
division (C) of section 120.41 of the Revised Code in the civil
action or proceeding.

(2)(a) Subject to division (E)(2)(b) of this section, payment
from the state treasury for the services of private legal counsel
with whom the state public defender has contracted pursuant to
division (E)(1) of this section shall be accomplished only through
the following procedure:

(i) The private legal counsel shall file with the attorney
general a copy of the contract; a request for an award of legal
fees, court costs, and expenses earned or incurred in connection
with the defense of the Ohio public defender commission, the state
public defender, an assistant state public defender, an employee,
or an attorney in a specified civil action or proceeding; a
written itemization of those fees, costs, and expenses, including
the signature of the state public defender and the state public
defender's attestation that the fees, costs, and expenses were
earned or incurred pursuant to division (E)(1) of this section to
the best of the state public defender's knowledge and information;
a written statement whether the fees, costs, and expenses are for

all legal services to be rendered in connection with that defense, 2681
are only for legal services rendered to the date of the request 2682
and additional legal services likely will have to be provided in 2683
connection with that defense, or are for the final legal services 2684
rendered in connection with that defense; a written statement 2685
indicating whether the private legal counsel previously submitted 2686
a request for an award under division (E)(2) of this section in 2687
connection with that defense and, if so, the date and the amount 2688
of each award granted; and, if the fees, costs, and expenses are 2689
for all legal services to be rendered in connection with that 2690
defense or are for the final legal services rendered in connection 2691
with that defense, a certified copy of any judgment entry in the 2692
civil action or proceeding or a signed copy of any settlement 2693
agreement entered into between the parties to the civil action or 2694
proceeding. 2695

(ii) Upon receipt of a request for an award of legal fees, 2696
court costs, and expenses and the requisite supportive 2697
documentation described in division (E)(2)(a)(i) of this section, 2698
the attorney general shall review the request and documentation; 2699
determine whether any of the limitations specified in division 2700
(E)(2)(b) of this section apply to the request; and, if an award 2701
of legal fees, court costs, or expenses is permissible after 2702
applying the limitations, prepare a document awarding legal fees, 2703
court costs, or expenses to the private legal counsel. The 2704
document shall name the private legal counsel as the recipient of 2705
the award; specify the total amount of the award as determined by 2706
the attorney general; itemize the portions of the award that 2707
represent legal fees, court costs, and expenses; specify any 2708
limitation applied pursuant to division (E)(2)(b) of this section 2709
to reduce the amount of the award sought by the private legal 2710
counsel; state that the award is payable from the state treasury 2711
pursuant to division (E)(2)(a)(iii) of this section; and be 2712

approved by the inclusion of the signatures of the attorney 2713
general, the state public defender, and the private legal counsel. 2714

(iii) The attorney general shall forward a copy of the 2715
document prepared pursuant to division (E)(2)(a)(ii) of this 2716
section to the director of budget and management. The award of 2717
legal fees, court costs, or expenses shall be paid out of the 2718
state public defender's appropriations, to the extent there is a 2719
sufficient available balance in those appropriations. If the state 2720
public defender does not have a sufficient available balance in 2721
the state public defender's appropriations to pay the entire award 2722
of legal fees, court costs, or expenses, the director shall make 2723
application for a transfer of appropriations out of the emergency 2724
purposes account or any other appropriation for emergencies or 2725
contingencies in an amount equal to the portion of the award that 2726
exceeds the sufficient available balance in the state public 2727
defender's appropriations. A transfer of appropriations out of the 2728
emergency purposes account or any other appropriation for 2729
emergencies or contingencies shall be authorized if there are 2730
sufficient moneys greater than the sum total of then pending 2731
emergency purposes account requests, or requests for releases from 2732
the other appropriation. If a transfer of appropriations out of 2733
the emergency purposes account or other appropriation for 2734
emergencies or contingencies is made to pay an amount equal to the 2735
portion of the award that exceeds the sufficient available balance 2736
in the state public defender's appropriations, the director shall 2737
cause the payment to be made to the private legal counsel. If 2738
sufficient moneys do not exist in the emergency purposes account 2739
or other appropriation for emergencies or contingencies to pay an 2740
amount equal to the portion of the award that exceeds the 2741
sufficient available balance in the state public defender's 2742
appropriations, the private legal counsel shall request the 2743
general assembly to make an appropriation sufficient to pay an 2744

amount equal to the portion of the award that exceeds the 2745
sufficient available balance in the state public defender's 2746
appropriations, and no payment in that amount shall be made until 2747
the appropriation has been made. The private legal counsel shall 2748
make the request during the current biennium and during each 2749
succeeding biennium until a sufficient appropriation is made. 2750

(b) An award of legal fees, court costs, and expenses 2751
pursuant to division (E) of this section is subject to the 2752
following limitations: 2753

(i) The maximum award or maximum aggregate of a series of 2754
awards of legal fees, court costs, and expenses to the private 2755
legal counsel in connection with the defense of the Ohio public 2756
defender commission, the state public defender, an assistant state 2757
public defender, an employee, or an attorney in a specified civil 2758
action or proceeding shall not exceed fifty thousand dollars. 2759

(ii) The private legal counsel shall not be awarded legal 2760
fees, court costs, or expenses to the extent the fees, costs, or 2761
expenses are covered by a policy of malpractice or other 2762
insurance. 2763

(iii) The private legal counsel shall be awarded legal fees 2764
and expenses only to the extent that the fees and expenses are 2765
reasonable in light of the legal services rendered by the private 2766
legal counsel in connection with the defense of the Ohio public 2767
defender commission, the state public defender, an assistant state 2768
public defender, an employee, or an attorney in a specified civil 2769
action or proceeding. 2770

(c) If, pursuant to division (E)(2)(a) of this section, the 2771
attorney general denies a request for an award of legal fees, 2772
court costs, or expenses to private legal counsel because of the 2773
application of a limitation specified in division (E)(2)(b) of 2774
this section, the attorney general shall notify the private legal 2775

counsel in writing of the denial and of the limitation applied. 2776

(d) If, pursuant to division (E)(2)(c) of this section, a 2777
private legal counsel receives a denial of an award notification 2778
or if a private legal counsel refuses to approve a document under 2779
division (E)(2)(a)(ii) of this section because of the proposed 2780
application of a limitation specified in division (E)(2)(b) of 2781
this section, the private legal counsel may commence a civil 2782
action against the attorney general in the court of claims to 2783
prove the private legal counsel's entitlement to the award sought, 2784
to prove that division (E)(2)(b) of this section does not prohibit 2785
or otherwise limit the award sought, and to recover a judgment for 2786
the amount of the award sought. A civil action under division 2787
(E)(2)(d) of this section shall be commenced no later than two 2788
years after receipt of a denial of award notification or, if the 2789
private legal counsel refused to approve a document under division 2790
(E)(2)(a)(ii) of this section because of the proposed application 2791
of a limitation specified in division (E)(2)(b) of this section, 2792
no later than two years after the refusal. Any judgment of the 2793
court of claims in favor of the private legal counsel shall be 2794
paid from the state treasury in accordance with division (E)(2)(a) 2795
of this section. 2796

(F) If a court appoints the office of the state public 2797
defender to represent a petitioner in a postconviction relief 2798
proceeding under section 2953.21 of the Revised Code, the 2799
petitioner has received a sentence of death, and the proceeding 2800
relates to that sentence, all of the attorneys who represent the 2801
petitioner in the proceeding pursuant to the appointment, whether 2802
an assistant state public defender, the state public defender, or 2803
another attorney, shall be certified under Rule 20 of the Rules of 2804
Superintendence for the Courts of Ohio to represent indigent 2805
defendants charged with or convicted of an offense for which the 2806
death penalty can be or has been imposed. 2807

(G) As used in this section:	2808
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	2809 2810
(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	2811 2812
Sec. 120.13. (A) The county commissioners in any county may establish a county public defender commission. The commission shall have five members, three of whom shall be appointed by the board of county commissioners, and two by the judge, or the presiding judge if there is one, of the court of common pleas of the county. At least one member appointed by each of these appointing bodies shall be an attorney admitted to the practice of law in this state.	2813 2814 2815 2816 2817 2818 2819 2820
(B) The board of county commissioners shall select a specific day for the county public defender commission to be established and on which all members' appointments shall take effect, and shall notify the Ohio public defender commission of the date.	2821 2822 2823 2824
(C) Of the initial appointments made to the county public defender commission, two appointments by the county commissioners and one appointment by the court shall be for a term of two years ending two years after the date the commission is established, and one appointment by each of the appointing bodies shall be for a term ending four years after the date the commission is established. Thereafter, terms of office shall be for four years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which he <u>the member</u> was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his <u>the member's</u> predecessor was appointed shall hold office for the	2825 2826 2827 2828 2829 2830 2831 2832 2833 2834 2835 2836 2837

remainder of such term. Any member shall continue in office 2838
subsequent to the expiration date of ~~his~~ the member's term until 2839
~~his~~ a successor takes office, or until a period of sixty days has 2840
elapsed, whichever occurs first. 2841

(D) The members of the commission shall choose as ~~chairman~~ 2842
chairperson one of the commission members, who shall serve as 2843
~~chairman~~ chairperson for two years. Meetings shall be held at 2844
least quarterly and at such other times as called by the ~~chairman~~ 2845
chairperson or by request of the county public defender. Members 2846
of the commission may receive an amount fixed by the county 2847
commissioners, but not in excess of the amounts set for the 2848
members of the Ohio public defender commission pursuant to section 2849
124.14 of the Revised Code per diem for every meeting of the board 2850
they attend, and necessary expenses including mileage for each 2851
mile necessarily traveled. 2852

(E) The county commissioners may terminate the county public 2853
defender commission at any time if at least ninety days prior to 2854
termination, the commissioners notify the Ohio public defender 2855
commission in writing of the termination date. Upon the 2856
termination date all pending county public defender matters shall 2857
be transferred to the state public defender, a joint county public 2858
defender, or appointed counsel. 2859

(F) ~~Fifty per cent of the~~ The cost of representation in all 2860
matters assumed by the state public defender shall be charged to 2861
the counties in accordance with division (D) of section 120.06 of 2862
the Revised Code. 2863

Sec. 120.23. (A) The boards of county commissioners in two or 2864
more adjoining or neighboring counties may form themselves into a 2865
joint board and proceed to organize a district for the 2866
establishment of a joint county public defender commission. The 2867
commission shall have three members from each county, who shall be 2868

appointed by the board of county commissioners of the county. 2869

(B) The boards shall agree on a specific date for the joint 2870
county public defender commission to be established, on which date 2871
the appointments of all members shall take effect. The joint board 2872
shall notify the Ohio public defender commission of the date. 2873

(C) Of the initial appointments made by each county to the 2874
joint county public defender commission, one appointment shall be 2875
for a term of one year ending one year after the date the 2876
commission is established, one appointment shall be for a term of 2877
two years ending two years after the date the commission is 2878
established, and one appointment shall be for a period of three 2879
years, ending three years after the date the commission is 2880
established. Thereafter, terms of office shall be for three years, 2881
each term ending on the same day of the same month of the year as 2882
did the term which it succeeds. Each member shall hold office from 2883
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 2884
the member was appointed. Any member appointed to fill a vacancy 2885
occurring prior to the expiration of the term for which ~~his~~ the 2886
member's predecessor was appointed shall hold office for the 2887
remainder of the term. Any member shall continue in office 2888
subsequent to the expiration date of ~~his~~ the member's term until 2889
~~his~~ a successor takes office, or until a period of sixty days has 2890
elapsed, whichever occurs first. 2891

(D) The members of the commission shall choose as ~~chairman~~ 2892
chairperson one of the commission members, who shall serve as 2893
~~chairman~~ chairperson for two years. Meetings shall be held at 2894
least quarterly and at such other times as called by the ~~chairman~~ 2895
chairperson or by request of the joint county public defender. 2896
Members of the commission may receive an amount fixed by the 2897
agreement of the boards of commissioners of the counties in the 2898
district, but not in excess of the amount set for the members of 2899
the Ohio public defender commission pursuant to section 124.14 of 2900

the Revised Code per diem for every meeting of the commission they 2901
attend, and necessary expenses including mileage for each mile 2902
necessarily traveled. 2903

(E) The agreement of the boards of county commissioners 2904
establishing the joint county public defender commission shall 2905
provide for the allocation of the proportion of expenses to be 2906
paid by each county, which may be based upon population, number of 2907
cases, or such other factors as the commissioners determine to be 2908
appropriate. The county commissioners may amend their agreement 2909
from time to time to provide for a different allocation of the 2910
proportion of expenses to be paid by each county. 2911

(F) The county auditor of the county, with the greatest 2912
population is hereby designated as the fiscal officer of a joint 2913
county public defender district organized under this section. The 2914
county auditors of the several counties composing the joint county 2915
public defender commission district shall meet at the commission 2916
office not less than once in each six months, to adjust accounts 2917
and to transact such other duties in connection with the 2918
commission as pertain to the business of their office. 2919

(G) Each member of the board of county commissioners who 2920
meets by appointment to consider the organization of a joint 2921
county public defender commission shall, upon presentation of 2922
properly certified accounts, be paid ~~his~~ the member's necessary 2923
expenses upon a warrant drawn by the county auditor of ~~his~~ the 2924
member's county. 2925

(H) The board of county commissioners of any county within a 2926
joint county public defender commission district may withdraw from 2927
the district. Such withdrawal shall not be effective until at 2928
least ninety days after the board has notified the Ohio public 2929
defender commission, the joint county public defender commission 2930
of the district, and each board of county commissioners in the 2931
district, in writing of the termination date. The failure of a 2932

board of county commissioners to approve an annual operating 2933
budget for the office of the joint county public defender as 2934
provided in division (C)(1) of section 120.24 of the Revised Code 2935
constitutes a notice of withdrawal by the county from the 2936
district, effective on the ninetieth day after commencement of the 2937
next fiscal year. Upon the termination date, all joint county 2938
public defender matters relating to the withdrawing county shall 2939
be transferred to the state public defender, a county public 2940
defender, or appointed counsel. 2941

(I) ~~Fifty per cent of the~~ The cost of representation in all 2942
matters assumed by the state public defender shall be charged to 2943
the counties in accordance with division (D) of section 120.06 of 2944
the Revised Code. 2945

Members of the joint county public defender commission who 2946
are residents of a county withdrawing from such district are 2947
deemed to have resigned their positions upon the completion of the 2948
withdrawal procedure provided by this section. Vacancies thus 2949
created shall not be filled. 2950

If two or more counties remain within the district after the 2951
withdrawal, the boards of county commissioners of the remaining 2952
adjoining or neighboring counties may agree to continue the 2953
operation of the joint county public defender commission and to 2954
reallocate the proportionate share of expenses to be paid by each 2955
participating county. 2956

Sec. 120.36. (A) If a person who is a defendant in a criminal 2957
case requests or is provided a state public defender, a county or 2958
joint county public defender, or any other counsel appointed by 2959
the court, the court in which the criminal case is filed shall 2960
assess, unless the application fee is waived or reduced, a 2961
non-refundable application fee of twenty-five dollars. 2962

The court shall direct the person to pay the application fee 2963
to the clerk of court. The person shall pay the application fee at 2964
the time the person files an affidavit of indigency or a financial 2965
disclosure form with the court or within seven days of that date. 2966
If the person does not pay the application fee within that 2967
seven-day period, the court shall assess the application fee at 2968
sentencing or at the final disposition of the case. 2969

The court shall assess an application fee pursuant to this 2970
section one time per case. It may waive or reduce the fee upon a 2971
finding that the person lacks financial resources that are 2972
sufficient to pay the fee. 2973

(B) No court, state public defender, or county or joint 2974
county public defender shall deny a person the assistance of 2975
counsel solely due to the person's failure to pay the application 2976
fee assessed pursuant to division (A) of this section. A person's 2977
present inability, failure, or refusal to pay the application fee 2978
shall not disqualify that person from legal representation. 2979

(C) The application fee assessed pursuant to division (A) of 2980
this section is separate from and in addition to any other amount 2981
assessed against a person who is found to be able to contribute 2982
toward the cost of the person's legal representation pursuant to 2983
division (D) of section 2941.51 of the Revised Code. 2984

(D) The clerk of court shall forward all application fees 2985
collected pursuant to this section to the county treasurer for 2986
deposit in the county treasury. The county shall retain eighty per 2987
cent of the application fees so collected to offset the costs of 2988
providing legal representation to indigent persons. Each month, 2989
the county auditor shall remit twenty per cent of the application 2990
fees so collected to the state public defender. The state public 2991
defender shall deposit the remitted fees into the state treasury 2992
to the credit of the client payment fund created pursuant to 2993

division (B)(5) of section 120.04 of the Revised Code. The state 2994
public defender may use that money in accordance with that 2995
section. 2996

(E) On or before the first day of March of each year, each 2997
clerk of court shall provide to the state public defender and the 2998
state auditor a report including all of the following: 2999

(1) The number of persons who requested or were provided a 3000
state public defender, county or joint county public defender, or 3001
other counsel appointed by the court; 3002

(2) The number of persons for whom the court waived the 3003
application fee pursuant to division (A) of this section; 3004

(3) The dollar value of the assessed application fees 3005
pursuant to division (A) of this section in the previous year; 3006

(4) The amount of assessed application fees collected in the 3007
previous year; 3008

(5) The balance of unpaid assessed application fees at the 3009
open and close of the previous year. 3010

(F) As used in this section: 3011

(1) "Clerk of court" means the clerk of the court of common 3012
pleas of the county, the clerk of the juvenile court of the 3013
county, the clerk of a municipal court in the county, the clerk of 3014
a county-operated municipal court, or the clerk of a county court 3015
in the county, whichever is applicable. 3016

(2) "County-operated municipal court" has the same meaning as 3017
in section 1901.03 of the Revised Code. 3018

Sec. 120.52. There is hereby established in the state 3019
treasury the legal aid fund, which shall be for the charitable 3020
public purpose of providing financial assistance to legal aid 3021
societies that provide civil legal services to indigents. The fund 3022

shall contain all funds credited to it by the treasurer of state 3023
pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09 3024
and 4705.10 of the Revised Code and income from investment 3025
credited to it by the treasurer of state in accordance with this 3026
section. 3027

The treasurer of state may invest moneys contained in the 3028
legal aid fund in any manner authorized by the Revised Code for 3029
the investment of state moneys. However, no such investment shall 3030
interfere with any apportionment, allocation, or payment of moneys 3031
in January and July of each calendar year, as required by section 3032
120.53 of the Revised Code. All income earned as a result of any 3033
such investment shall be credited to the fund. 3034

The state public defender, through the Ohio legal assistance 3035
foundation, shall administer the payment of moneys out of the 3036
fund. Four and one-half per cent of the moneys in the fund shall 3037
be reserved for the actual, reasonable costs of administering 3038
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3039
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that 3040
are reserved for administrative costs but that are not used for 3041
actual, reasonable administrative costs shall be set aside for use 3042
in the manner described in division (A) of section 120.521 of the 3043
Revised Code. The remainder of the moneys in the legal aid fund 3044
shall be distributed in accordance with section 120.53 of the 3045
Revised Code. The Ohio legal assistance foundation shall establish 3046
rules governing the administration of the legal aid fund, 3047
including the ~~program~~ programs established under sections 1901.26, 3048
1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the Revised 3049
Code regarding interest on interest-bearing trust accounts of an 3050
attorney, law firm, or legal professional association. 3051

Sec. 120.53. (A) A legal aid society that operates within the 3052
state may apply to the Ohio legal assistance foundation for 3053

financial assistance from the legal aid fund established by 3054
section 120.52 of the Revised Code to be used for the funding of 3055
the society during the calendar year following the calendar year 3056
in which application is made. 3057

(B) An application for financial assistance made under 3058
division (A) of this section shall be submitted by the first day 3059
of November of the calendar year preceding the calendar year for 3060
which financial assistance is desired and shall include all of the 3061
following: 3062

(1) Evidence that the applicant is incorporated in this state 3063
as a nonprofit corporation; 3064

(2) A list of the trustees of the applicant; 3065

(3) The proposed budget of the applicant for these funds for 3066
the following calendar year; 3067

(4) A summary of the services to be offered by the applicant 3068
in the following calendar year; 3069

(5) A specific description of the territory or constituency 3070
served by the applicant; 3071

(6) An estimate of the number of persons to be served by the 3072
applicant during the following calendar year; 3073

(7) A general description of the additional sources of the 3074
applicant's funding; 3075

(8) The amount of the applicant's total budget for the 3076
calendar year in which the application is filed that it will 3077
expend in that calendar year for legal services in each of the 3078
counties it serves; 3079

(9) A specific description of any services, programs, 3080
training, and legal technical assistance to be delivered by the 3081
applicant or by another person pursuant to a contract with the 3082
applicant, including, but not limited to, by private attorneys or 3083

through reduced fee plans, judicare panels, organized pro bono programs, and mediation programs. 3084
3085

(C) The Ohio legal assistance foundation shall determine 3086
whether each applicant that filed an application for financial 3087
assistance under division (A) of this section in a calendar year 3088
is eligible for financial assistance under this section. To be 3089
eligible for such financial assistance, an applicant shall satisfy 3090
the criteria for being a legal aid society and shall be in 3091
compliance with the provisions of sections 120.51 to 120.55 of the 3092
Revised Code and with the rules and requirements the foundation 3093
establishes pursuant to section 120.52 of the Revised Code. The 3094
Ohio legal assistance foundation then, on or before the fifteenth 3095
day of December of the calendar year in which the application is 3096
filed, shall notify each such applicant, in writing, whether it is 3097
eligible for financial assistance under this section, and if it is 3098
eligible, estimate the amount that will be available for that 3099
applicant for each six-month distribution period, as determined 3100
under division (D) of this section. 3101

(D) The Ohio legal assistance foundation shall allocate 3102
moneys contained in the legal aid fund twice each year for 3103
distribution to applicants that filed their applications in the 3104
previous calendar year and were determined to be eligible 3105
applicants. 3106

All moneys contained in the fund on the first day of January 3107
of a calendar year shall be allocated, after deduction of the 3108
costs of administering sections 120.51 to 120.55 and sections 3109
1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the 3110
Revised Code that are authorized by section 120.52 of the Revised 3111
Code, according to this section and shall be distributed 3112
accordingly on the thirty-first day of January of that calendar 3113
year, and all moneys contained in the fund on the first day of 3114
July of that calendar year shall be allocated, after deduction of 3115

the costs of administering those sections that are authorized by 3116
section 120.52 of the Revised Code, according to this section and 3117
shall be distributed accordingly on the thirty-first day of July 3118
of that calendar year. In making the allocations under this 3119
section, the moneys in the fund that were generated pursuant to 3120
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 3121
4705.10 of the Revised Code and all income generated from the 3122
investment of such moneys shall be apportioned as follows: 3123

(1) After deduction of the amount authorized and used for 3124
actual, reasonable administrative costs under section 120.52 of 3125
the Revised Code: 3126

(a) Five per cent of the moneys remaining in the fund, ~~plus~~ 3127
~~any moneys reserved for administrative costs under that section~~ 3128
~~that are not used for actual, reasonable administrative costs,~~ 3129
shall be reserved for use in the manner described in division (A) 3130
of section 120.521 of the Revised Code or for distribution to 3131
legal aid societies that provide assistance to special population 3132
groups of their eligible clients, engage in special projects that 3133
have a substantial impact on their local service area or on 3134
significant segments of the state's poverty population, or provide 3135
legal training or support to other legal aid societies in the 3136
state; 3137

(b) After deduction of the amount described in division 3138
(D)(1)(a) of this section, one and three-quarters per cent of the 3139
moneys remaining in the fund shall be apportioned among entities 3140
that received financial assistance from the legal aid fund prior 3141
to the effective date of this amendment but that, on and after the 3142
effective date of this amendment, no longer qualify as a legal aid 3143
society that is eligible for financial assistance under this 3144
section. 3145

(c) After deduction of the amounts described in divisions 3146
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 3147

remaining in the fund shall be placed in the legal assistance 3148
foundation fund for use in the manner described in division (A) of 3149
section 120.521 of the Revised Code. 3150

(2) After deduction of the actual, reasonable administrative 3151
costs under section 120.52 of the Revised Code and after deduction 3152
of the amounts identified in ~~division~~ divisions (D)(1)(a) ~~and~~, 3153
(b), and (c) of this section, the remaining moneys shall be 3154
apportioned among the counties that are served by eligible legal 3155
aid societies that have applied for financial assistance under 3156
this section so that each such county is apportioned a portion of 3157
those moneys, based upon the ratio of the number of indigents who 3158
reside in that county to the total number of indigents who reside 3159
in all counties of this state that are served by eligible legal 3160
aid societies that have applied for financial assistance under 3161
this section. Subject to division (E) of this section, the moneys 3162
apportioned to a county under this division then shall be 3163
allocated to the eligible legal aid society that serves the county 3164
and that has applied for financial assistance under this section. 3165
For purposes of this division, the source of data identifying the 3166
number of indigent persons who reside in a county shall be the 3167
most recent decennial census figures from the United States 3168
department of commerce, division of census. 3169

(E) If the Ohio legal assistance foundation, in attempting to 3170
make an allocation of moneys under division (D)(2) of this 3171
section, determines that a county that has been apportioned money 3172
under that division is served by more than one eligible legal aid 3173
society that has applied for financial assistance under this 3174
section, the Ohio legal assistance foundation shall allocate the 3175
moneys that have been apportioned to that county under division 3176
(D)(2) of this section among all eligible legal aid societies that 3177
serve that county and that have applied for financial assistance 3178
under this section on a pro rata basis, so that each such eligible 3179

society is allocated a portion based upon the amount of its total budget expended in the prior calendar year for legal services in that county as compared to the total amount expended in the prior calendar year for legal services in that county by all eligible legal aid societies that serve that county and that have applied for financial assistance under this section.

(F) Moneys allocated to eligible applicants under this section shall be paid twice annually, on the thirty-first day of January and on the thirty-first day of July of the calendar year following the calendar year in which the application is filed.

(G)(1) A legal aid society that receives financial assistance in any calendar year under this section shall file an annual report with the Ohio legal assistance foundation detailing the number and types of cases handled, and the amount and types of legal training, legal technical assistance, and other service provided, by means of that financial assistance. No information contained in the report shall identify or enable the identification of any person served by the legal aid society or in any way breach client confidentiality.

(2) The Ohio legal assistance foundation shall make an annual report to the governor, the general assembly, and the supreme court on the distribution and use of the legal aid fund. The foundation also shall include in the annual report an audited financial statement of all gifts, bequests, donations, contributions, and other moneys the foundation receives. No information contained in the report shall identify or enable the identification of any person served by a legal aid society, or in any way breach confidentiality.

(H) A legal aid society may enter into agreements for the provision of services, programs, training, or legal technical assistance for the legal aid society or to indigent persons.

Sec. 121.37. (A)(1) There is hereby created the Ohio family 3211
and children first cabinet council. The council shall be composed 3212
of the superintendent of public instruction and the directors of 3213
youth services, job and family services, mental health, health, 3214
alcohol and drug addiction services, mental retardation and 3215
developmental disabilities, and budget and management. The 3216
chairperson of the council shall be the governor or the governor's 3217
designee and shall establish procedures for the council's internal 3218
control and management. 3219

(2) The purpose of the cabinet council is to help families 3220
seeking government services. This section shall not be interpreted 3221
or applied to usurp the role of parents, but solely to streamline 3222
and coordinate existing government services for families seeking 3223
assistance for their children. 3224

In seeking to fulfill its purpose, the council may do any of 3225
the following: 3226

(a) Advise and make recommendations to the governor and 3227
general assembly regarding the provision of services to children; 3228

(b) Advise and assess local governments on the coordination 3229
of service delivery to children; 3230

(c) Hold meetings at such times and places as may be 3231
prescribed by the council's procedures and maintain records of the 3232
meetings, except that records identifying individual children are 3233
confidential and shall be disclosed only as provided by law; 3234

(d) Develop programs and projects, including pilot projects, 3235
to encourage coordinated efforts at the state and local level to 3236
improve the state's social service delivery system; 3237

(e) Enter into contracts with and administer grants to county 3238
family and children first councils, as well as other county or 3239
multicounty organizations to plan and coordinate service delivery 3240

between state agencies and local service providers for families	3241
and children;	3242
(f) Enter into contracts with and apply for grants from	3243
federal agencies or private organizations;	3244
(g) Enter into interagency agreements to encourage	3245
coordinated efforts at the state and local level to improve the	3246
state's social service delivery system. The agreements may include	3247
provisions regarding the receipt, transfer, and expenditure of	3248
funds;	3249
(h) Identify public and private funding sources for services	3250
provided to alleged or adjudicated unruly children and children	3251
who are at risk of being alleged or adjudicated unruly children,	3252
including regulations governing access to and use of the services;	3253
(i) Collect information provided by local communities	3254
regarding successful programs for prevention, intervention, and	3255
treatment of unruly behavior, including evaluations of the	3256
programs;	3257
(j) Identify and disseminate publications regarding alleged	3258
or adjudicated unruly children and children who are at risk of	3259
being alleged or adjudicated unruly children and regarding	3260
programs serving those types of children;	3261
(k) Maintain an inventory of strategic planning facilitators	3262
for use by government or nonprofit entities that serve alleged or	3263
adjudicated unruly children or children who are at risk of being	3264
alleged or adjudicated unruly children.	3265
(3) The cabinet council shall provide for the following:	3266
(a) Reviews of service and treatment plans for children for	3267
which such reviews are requested;	3268
(b) Assistance as the council determines to be necessary to	3269
meet the needs of children referred by county family and children	3270

first councils; 3271

(c) Monitoring and supervision of a statewide, comprehensive, 3272
coordinated, multi-disciplinary, interagency system for infants 3273
and toddlers with developmental disabilities or delays and their 3274
families, as established pursuant to federal grants received and 3275
administered by the department of health for early intervention 3276
services under the "Education of the Handicapped Act Amendments of 3277
1986," 100 Stat. 1145 (1986), 20 U.S.C.A. 1471, as amended. 3278

(B)(1) Each board of county commissioners shall establish a 3279
county family and children first council. The board may invite any 3280
local public or private agency or group that funds, advocates, or 3281
provides services to children and families to have a 3282
representative become a permanent or temporary member of its 3283
county council. Each county council must include the following 3284
individuals: 3285

(a) At least three individuals who do not have an immediate 3286
family member who is employed by an agency represented on the 3287
council and whose families are or have received services from an 3288
agency represented on the council or another county's council. 3289
Where possible, the number of members representing families shall 3290
be equal to twenty per cent of the council's membership. 3291

(b) The director of the board of alcohol, drug addiction, and 3292
mental health services that serves the county, or, in the case of 3293
a county that has a board of alcohol and drug addiction services 3294
and a community mental health board, the directors of both boards- 3295
~~If a board of alcohol, drug addiction, and mental health services~~ 3296
~~covers more than one county, the director may designate a person~~ 3297
~~to participate on the county's council.;~~ 3298

(c) The health commissioner, ~~or the commissioner's designee,~~ 3299
of the board of health of each city and general health district in 3300
the county. If the county has two or more health districts, the 3301

health commissioner membership may be limited to the commissioners	3302
of the two districts with the largest populations.	3303
(d) The director of the county department of job and family services;	3304 3305
(e) The executive director of the county agency responsible for the administration of <u>public</u> children services pursuant to section 5153.15 of the Revised Code <u>agency</u> ;	3306 3307 3308
(f) The superintendent of the county board of mental retardation and developmental disabilities;	3309 3310
(g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;	3311 3312 3313 3314
(h) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each board of county commissioners of its determination at least biennially;	3315 3316 3317 3318 3319
(i) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;	3320 3321 3322
(j) A representative of the municipal corporation with the largest population in the county;	3323 3324
(k) The president of the board of county commissioners, or an individual designated by the board ;	3325 3326
(l) A representative of the regional office of the department of youth services;	3327 3328
(m) A representative of the county's head start agencies, as defined in section 3301.31 <u>3301.32</u> of the Revised Code;	3329 3330
(n) A representative of the county's early intervention	3331

collaborative established pursuant to the federal early 3332
intervention program operated under the "Education of the 3333
Handicapped Act Amendments of 1986"; 3334

(o) A representative of a local nonprofit entity that funds, 3335
advocates, or provides services to children and families. 3336

Each member of a county council specified in division 3337
(B)(1)(b) to (n) of this section may designate an individual to 3338
serve on the county council for the member, except that a board of 3339
county commissioners, rather than the president of the board, may 3340
designate an individual to serve on the county council for the 3341
president. 3342

Notwithstanding any other provision of law, the public 3343
members of a county council are not prohibited from serving on the 3344
council and making decisions regarding the duties of the council, 3345
including those involving the funding of joint projects and those 3346
outlined in the county's service coordination mechanism 3347
implemented pursuant to division (C) of this section. 3348

The cabinet council shall establish a state appeals process 3349
to resolve disputes among the members of a county council 3350
concerning whether reasonable responsibilities as members are 3351
being shared. The appeals process may be accessed only by a 3352
majority vote of the council members who are required to serve on 3353
the council. Upon appeal, the cabinet council may order that state 3354
funds for services to children and families be redirected to a 3355
county's board of county commissioners. 3356

(2) A county council shall provide for the following: 3357

(a) Referrals to the cabinet council of those children for 3358
whom the county council cannot provide adequate services; 3359

(b) Development and implementation of a process that annually 3360
evaluates and prioritizes services, fills service gaps where 3361

possible, and invents new approaches to achieve better results for 3362
families and children; 3363

(c) Participation in the development of a countywide, 3364
comprehensive, coordinated, multi-disciplinary, interagency system 3365
for infants and toddlers with developmental disabilities or delays 3366
and their families, as established pursuant to federal grants 3367
received and administered by the department of health for early 3368
intervention services under the "Education of the Handicapped Act 3369
Amendments of 1986"; 3370

(d) Maintenance of an accountability system to monitor the 3371
county council's progress in achieving results for families and 3372
children; 3373

(e) Establishment of a mechanism to ensure ongoing input from 3374
a broad representation of families who are receiving services 3375
within the county system. 3376

(3)(a) Except as provided in division (B)(3)(b) of this 3377
section, a county council shall comply with the policies, 3378
procedures, and activities prescribed by the rules or interagency 3379
agreements of a state department participating on the cabinet 3380
council whenever the county council performs a function subject to 3381
those rules or agreements. 3382

(b) On application of a county council, the cabinet council 3383
may grant an exemption from any rules or interagency agreements of 3384
a state department participating on the council if an exemption is 3385
necessary for the council to implement an alternative program or 3386
approach for service delivery to families and children. The 3387
application shall describe the proposed program or approach and 3388
specify the rules or interagency agreements from which an 3389
exemption is necessary. The cabinet council shall approve or 3390
disapprove the application in accordance with standards and 3391
procedures it shall adopt. If an application is approved, the 3392

exemption is effective only while the program or approach is being 3393
implemented, including a reasonable period during which the 3394
program or approach is being evaluated for effectiveness. 3395

(4)(a) Each county council shall designate an administrative 3396
agent for the council from among the following public entities: 3397
the board of alcohol, drug addiction, and mental health services, 3398
including a board of alcohol and drug addiction or a community 3399
mental health board if the county is served by separate boards; 3400
the board of county commissioners; any board of health of the 3401
county's city and general health districts; the county department 3402
of job and family services; the county agency responsible for the 3403
administration of children services pursuant to section 5153.15 of 3404
the Revised Code; the county board of mental retardation and 3405
developmental disabilities; any of the county's boards of 3406
education or governing boards of educational service centers; or 3407
the county's juvenile court. Any of the foregoing public entities, 3408
other than the board of county commissioners, may decline to serve 3409
as the council's administrative agent. 3410

A county council's administrative agent shall serve as the 3411
council's appointing authority for any employees of the council. 3412
The council shall file an annual budget with its administrative 3413
agent, with copies filed with the county auditor and with the 3414
board of county commissioners, unless the board is serving as the 3415
council's administrative agent. The council's administrative agent 3416
shall ensure that all expenditures are handled in accordance with 3417
policies, procedures, and activities prescribed by state 3418
departments in rules or interagency agreements that are applicable 3419
to the council's functions. 3420

The administrative agent for a county council may do any of 3421
the following on behalf of the council: 3422

(i) Enter into agreements or administer contracts with public 3423

or private entities to fulfill specific council business. Such 3424
agreements and contracts are exempt from the competitive bidding 3425
requirements of section 307.86 of the Revised Code if they have 3426
been approved by the county council and they are for the purchase 3427
of family and child welfare or child protection services or other 3428
social or job and family services for families and children. The 3429
approval of the county council is not required to exempt 3430
agreements or contracts entered into under section 5139.34, 3431
5139.41, or 5139.43 of the Revised Code from the competitive 3432
bidding requirements of section 307.86 of the Revised Code. 3433

(ii) As determined by the council, provide financial 3434
stipends, reimbursements, or both, to family representatives for 3435
expenses related to council activity; 3436

(iii) Receive by gift, grant, devise, or bequest any moneys, 3437
lands, or other property for the purposes for which the council is 3438
established. The agent shall hold, apply, and dispose of the 3439
moneys, lands, or other property according to the terms of the 3440
gift, grant, devise, or bequest. Any interest or earnings shall be 3441
treated in the same manner and are subject to the same terms as 3442
the gift, grant, devise, or bequest from which it accrues. 3443

(b)(i) If the county council designates the board of county 3444
commissioners as its administrative agent, the board may, by 3445
resolution, delegate any of its powers and duties as 3446
administrative agent to an executive committee the board 3447
establishes from the membership of the county council. The board 3448
shall name to the executive committee at least the individuals 3449
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 3450
section and may appoint the president of the board or another 3451
individual as the chair of the executive committee. 3452

(ii) The executive committee may, with the approval of the 3453
board, hire an executive director to assist the county council in 3454

administering its powers and duties. The executive director shall 3455
serve in the unclassified civil service at the pleasure of the 3456
executive committee. The executive director may, with the approval 3457
of the executive committee, hire other employees as necessary to 3458
properly conduct the county council's business. 3459

(iii) The board may require the executive committee to submit 3460
an annual budget to the board for approval and may amend or repeal 3461
the resolution that delegated to the executive committee its 3462
authority as the county council's administrative agent. 3463

(5) Two or more county councils may enter into an agreement 3464
to administer their county councils jointly by creating a regional 3465
family and children first council. A regional council possesses 3466
the same duties and authority possessed by a county council, 3467
except that the duties and authority apply regionally rather than 3468
to individual counties. Prior to entering into an agreement to 3469
create a regional council, the members of each county council to 3470
be part of the regional council shall meet to determine whether 3471
all or part of the members of each county council will serve as 3472
members of the regional council. 3473

(6) A board of county commissioners may approve a resolution 3474
by a majority vote of the board's members that requires the county 3475
council to submit a statement to the board each time the council 3476
proposes to enter into an agreement, adopt a plan, or make a 3477
decision, other than a decision pursuant to section 121.38 of the 3478
Revised Code, that requires the expenditure of funds for two or 3479
more families. The statement shall describe the proposed 3480
agreement, plan, or decision. 3481

Not later than fifteen days after the board receives the 3482
statement, it shall, by resolution approved by a majority of its 3483
members, approve or disapprove the agreement, plan, or decision. 3484
Failure of the board to pass a resolution during that time period 3485

shall be considered approval of the agreement, plan, or decision. 3486

An agreement, plan, or decision for which a statement is 3487
required to be submitted to the board shall be implemented only if 3488
it is approved by the board. 3489

(C) Each county shall develop a county service coordination 3490
mechanism. The mechanism shall be developed and approved with the 3491
participation of the county entities representing child welfare; 3492
mental retardation and developmental disabilities; alcohol, drug 3493
addiction, and mental health services; health; juvenile judges; 3494
education; the county family and children first council; and the 3495
county early intervention collaborative established pursuant to 3496
the federal early intervention program operated under the 3497
"Education of the Handicapped Act Amendments of 1986." The county 3498
shall establish an implementation schedule for the mechanism. The 3499
cabinet council may monitor the implementation and administration 3500
of each county's service coordination mechanism. 3501

Each mechanism shall include all of the following: 3502

(1) ~~A procedure for assessing the needs of any child,~~ 3503
~~including a child who is an abused, neglected, dependent, unruly,~~ 3504
~~or delinquent child and under the jurisdiction of the juvenile~~ 3505
~~court or a child whose parent or custodian is voluntarily seeking~~ 3506
~~services~~ a family seeking service coordination for the family's 3507
child to refer itself to the county council for coordination in 3508
accordance with the county service coordination mechanism; 3509

(2) A procedure for an agency, including a juvenile court, to 3510
refer a child and family to the county council for coordination in 3511
accordance with the county service coordination mechanism; 3512

(3) A procedure that does one of the following: 3513

(a) Permits a family to be involved in the service 3514
coordination mechanism by being notified of and invited to all 3515

meetings involved in the mechanism; 3516

(b) Permits a family to initiate a meeting to develop or 3517
review the family's service coordination plan and allows the 3518
family to invite a family advocate, mentor, or support person of 3519
the family's choice to any such meeting. 3520

(4) A procedure for notifying and inviting to all meetings 3521
appropriate staff from involved agencies, including a 3522
representative from the appropriate school district; 3523

(5) A procedure for ensuring that a service coordination 3524
meeting is conducted before a non-emergency out-of-home placement 3525
or long-term placement is made and that, in situations involving 3526
an emergency out-of-home placement, a service coordination meeting 3527
is conducted within ten days of the placement. 3528

(6) A procedure for monitoring the progress and tracking the 3529
outcomes of each service coordination plan requested in the county 3530
including monitoring and tracking children in out-of-home 3531
placements to assure continued progress, appropriateness of 3532
placement, and continuity of care after discharge from placement 3533
with appropriate arrangements for housing, treatment, and 3534
education. 3535

(7) A procedure for protecting the confidentiality of all 3536
personal family information disclosed during service coordination 3537
meetings or contained in the comprehensive family service 3538
coordination plan. 3539

(8) A procedure for assessing the ~~service~~ needs and strengths 3540
of ~~the family of~~ any child or family that has been referred to the 3541
council for service coordination, including a child ~~who is an~~ 3542
abused, neglected, dependent, unruly, or delinquent child and 3543
under the jurisdiction of the juvenile court or a child whose 3544
parent or custodian is voluntarily seeking services, and for 3545
ensuring that parents and custodians are afforded the opportunity 3546

to participate; 3547

~~(3)~~(9) A procedure for development of a comprehensive joint 3548
family service coordination plan described in division (D) of this 3549
section; 3550

~~(4)~~(10) A local dispute resolution process to serve as the 3551
process that must be used first to resolve disputes among the 3552
agencies represented on the county council concerning the 3553
provision of services to children, including children who are 3554
abused, neglected, dependent, unruly, alleged unruly, or 3555
delinquent children and under the jurisdiction of the juvenile 3556
court and children whose parents or custodians are voluntarily 3557
seeking services. The local dispute resolution process shall 3558
comply with section 121.38 of the Revised Code. The local dispute 3559
resolution process may also be used for disputes between an agency 3560
and a child's parents or custodian. In that case it shall comply 3561
with sections 121.381 and 121.382 of the Revised Code, as well as 3562
section 121.38 of the Revised Code. The 3563

The cabinet council shall adopt rules in accordance with 3564
Chapter 119. of the Revised Code establishing an administrative 3565
review process to address problems that arise concerning the 3566
operation of a local dispute resolution process. 3567

Nothing in division (C)(5) of this section shall be 3568
interpreted as overriding or affecting decisions of a juvenile 3569
court regarding an out-of-home placement, long-term placement, or 3570
emergency out-of-home placement. 3571

(D) Each county shall develop a comprehensive joint family 3572
service coordination plan that does ~~both~~ all of the following: 3573

(1) Designates service responsibilities among the various 3574
state and local agencies that provide services to children and 3575
their families, including children who are abused, neglected, 3576
dependent, unruly, or delinquent children and under the 3577

jurisdiction of the juvenile court and children whose parents or	3578
custodians are voluntarily seeking services;	3579
<u>(2) Designates the lead family plan coordinator, approved by</u>	3580
<u>the family, to ensure the coordination of and fidelity to the</u>	3581
<u>plan;</u>	3582
<u>(3) Ensures that assistance and services to be provided are</u>	3583
<u>responsive to the strengths and needs of the family, as well as</u>	3584
<u>the family's culture, race, and ethnic group, by allowing the</u>	3585
<u>family to offer information and suggestions and participate in</u>	3586
<u>decisions;</u>	3587
<u>(4) Ensures that assistance and services provided meet the</u>	3588
<u>needs of the child and family in the least restrictive</u>	3589
<u>environment;</u>	3590
<u>(5) Includes a service coordination process for dealing with</u>	3591
a child who is alleged to be an unruly child. The service	3592
coordination process shall include methods to divert the child	3593
from the juvenile court system;	3594
<u>(6) Includes timelines for completion of goals specified in</u>	3595
<u>the plan with regular reviews scheduled to monitor progress toward</u>	3596
<u>those goals;</u>	3597
<u>(7) Includes a plan for dealing with short-term crisis</u>	3598
<u>situations and safety concerns.</u>	3599
(E)(1) The service coordination process provided for under	3600
division (D) (2) (5) of this section may include, but is not limited	3601
to, the following:	3602
(a) An assessment of the needs and strengths of the child and	3603
the child's family and the services the child and the child's	3604
family need;	3605
(b) Designation of the person or agency to conduct the	3606
assessment of the child and the child's family as described in	3607

division ~~(E)(1)(a)(C)(8)~~ of this section and designation of the 3608
instrument or instruments to be used to conduct the assessment; 3609

~~(e) Designation of the agency to provide case management 3610
services to the child and to the child's family; 3611~~

~~(d)(b)~~ An emphasis on the personal responsibilities of the 3612
child and the parental responsibilities of the parents, guardian, 3613
or custodian of the child; 3614

~~(e)(c)~~ Involvement of local law enforcement agencies and 3615
officials. 3616

(2) The method to divert a child from the juvenile court 3617
system that must be included in the service coordination process 3618
may include, but is not limited to, the following: 3619

(a) The preparation of a complaint under section 2151.27 of 3620
the Revised Code alleging that the child is an unruly child and 3621
notifying the child and the parents, guardian, or custodian that 3622
the complaint has been prepared to encourage the child and the 3623
parents, guardian, or custodian to comply with other methods to 3624
divert the child from the juvenile court system; 3625

(b) Conducting a meeting with the child, the parents, 3626
guardian, or custodian, and other interested parties to determine 3627
the appropriate methods to divert the child from the juvenile 3628
court system; 3629

~~(c) A method for dealing with short term crisis situations 3630
involving a confrontation between the child and the parents,
guardian, or custodian; 3631
3632~~

~~(d)~~ A method to provide to the child and the child's family a 3633
short-term respite from a short-term crisis situation involving a 3634
confrontation between the child and the parents, guardian, or 3635
custodian; 3636

~~(e)(d)~~ A program to provide a mentor to the child or the 3637

parents, guardian, or custodian; 3638

~~(f)~~(e) A program to provide parenting education to the 3639
parents, guardian, or custodian; 3640

~~(g)~~(f) An alternative school program for children who are 3641
truant from school, repeatedly disruptive in school, or suspended 3642
or expelled from school; 3643

~~(h)~~(g) Other appropriate measures, including, but not limited 3644
to, any alternative methods to divert a child from the juvenile 3645
court system that are identified by the Ohio family and children 3646
first cabinet council. 3647

(F) Each county may review and revise the service 3648
coordination process described in division (D)~~(2)~~ of this section 3649
based on the availability of funds under Title IV-A of the "Social 3650
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 3651
or to the extent resources are available from any other federal, 3652
state, or local funds. 3653

Sec. 121.38. (A) An agency represented on a county family and 3654
children first council that disagrees with the council's decision 3655
concerning the services or funding for services a child is to 3656
receive from agencies represented on the council may initiate the 3657
local dispute resolution process established in the county service 3658
coordination mechanism applicable to the council. On completion of 3659
the process, the decision maker designated in the mechanism shall 3660
issue a written determination that directs one or more agencies 3661
represented on the council to provide services or funding for 3662
services to the child. The determination shall include a plan of 3663
care governing the manner in which the services or funding are to 3664
be provided. The decision maker shall base the plan of care on the 3665
comprehensive ~~joint~~ family service coordination plan developed as 3666
part of the county's service coordination mechanism and on 3667
evidence presented during the local dispute resolution process. 3668

The decision maker may require an agency to provide services or 3669
funding only if the child's condition or needs qualify the child 3670
for services under the laws governing the agency. 3671

3672

(B) An agency subject to a determination issued pursuant to a 3673
local dispute resolution process shall immediately comply with the 3674
determination, unless the agency objects to the determination by 3675
doing one of the following not later than seven days after the 3676
date the written determination is issued: 3677

(1) If the child has been alleged or adjudicated to be an 3678
abused, neglected, dependent, unruly, or delinquent child or a 3679
juvenile traffic offender, filing in the juvenile court of the 3680
county having jurisdiction over the child's case a motion 3681
requesting that the court hold a hearing to determine which 3682
agencies are to provide services or funding for services to the 3683
child. 3684

(2) If the child is not a child described in division (B)(1) 3685
of this section, filing in the juvenile court of the county served 3686
by the county council a complaint objecting to the determination. 3687

The court shall hold a hearing as soon as possible, but not 3688
later than ninety days after the motion or complaint is filed. At 3689
least five days before the date on which the court hearing is to 3690
be held, the court shall send each agency subject to the 3691
determination written notice by first class mail of the date, 3692
time, place, and purpose of the court hearing. In the case of a 3693
motion filed under division (B)(1) of this section, the court may 3694
conduct the hearing as part of the adjudicatory or dispositional 3695
hearing concerning the child, if appropriate, and shall provide 3696
notice as required for those hearings. 3697

Except in cases in which the hearing is conducted as part of 3698
the adjudicatory or dispositional hearing, a hearing held pursuant 3699

to this division shall be limited to a determination of which 3700
agencies are to provide services or funding for services to the 3701
child. At the conclusion of the hearing, the court shall issue an 3702
order directing one or more agencies represented on the county 3703
council to provide services or funding for services to the child. 3704
The order shall include a plan of care governing the manner in 3705
which the services or funding are to be provided. The court shall 3706
base the plan of care on the comprehensive ~~joint~~ family service 3707
coordination plan developed as part of the county's service 3708
coordination plan and on evidence presented during the hearing. An 3709
agency required by the order to provide services or funding shall 3710
be a party to any juvenile court proceeding concerning the child. 3711
The court may require an agency to provide services or funding for 3712
a child only if the child's condition or needs qualify the child 3713
for services under the laws governing the agency. 3714

(C) While the local dispute resolution process or court 3715
proceedings pursuant to this section are pending, each agency 3716
shall provide services and funding as required by the decision 3717
made by the county council before dispute resolution was 3718
initiated. If an agency that provides services or funds during the 3719
local dispute resolution process or court proceedings is 3720
determined through the process or proceedings not to be 3721
responsible for providing them, it shall be reimbursed for the 3722
costs of providing the services or funding by the agencies 3723
determined to be responsible for providing them. 3724

Sec. 121.381. A parent or custodian who disagrees with a 3725
decision rendered by a county family and children first council 3726
regarding services for a child may initiate the dispute resolution 3727
process established in the county service coordination mechanism 3728
pursuant to division (C)(10) of section 121.37 of the Revised 3729
Code. 3730

Not later than sixty days after the parent or custodian initiates the dispute resolution process, the council shall make findings regarding the dispute and issue a written determination of its findings. 3731
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Sec. 121.382. Each agency represented on a county family and children first council that is providing services or funding for services that are the subject of the dispute resolution process initiated by a parent or custodian under section 121.381 of the Revised Code shall continue to provide those services and the funding for those services during the dispute resolution process. 3735
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Sec. 121.403. (A) The Ohio community service council may do any of the following: 3741
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(1) Accept monetary gifts or donations; 3743

(2) Sponsor conferences, meetings, or events in furtherance of the council's purpose described in section 121.40 of the Revised Code and charge fees for participation or involvement in the conferences, meetings, or events; 3744
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(3) Sell promotional items in furtherance of the council's purpose described in section 121.40 of the Revised Code. 3748
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(B) All monetary gifts and donations, funds from the sale of promotional items, and any fees paid to the council for conferences, meetings, or events sponsored by the council shall be deposited into the Ohio community service council gifts and donations fund, which is hereby created in the state treasury. Moneys in the fund may be used only as follows: 3750
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(1) To pay operating expenses of the council, including payroll, personal services, maintenance, equipment, and subsidy payments; 3756
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(2) To support council programs promoting volunteerism and 3759

<u>community service in the state;</u>	3760
<u>(3) As matching funds for federal grants.</u>	3761
Sec. 122.011. (A) The department of development shall develop	3762
and promote plans and programs designed to assure that state	3763
resources are efficiently used, economic growth is properly	3764
balanced, community growth is developed in an orderly manner, and	3765
local governments are coordinated with each other and the state,	3766
and for such purposes may do all of the following:	3767
(1) Serve as a clearinghouse for information, data, and other	3768
materials that may be helpful or necessary to persons or local	3769
governments, as provided in section 122.07 of the Revised Code;	3770
(2) Prepare and activate plans for the retention,	3771
development, expansion, and use of the resources and commerce of	3772
the state, as provided in section 122.04 of the Revised Code;	3773
(3) Assist and cooperate with federal, state, and local	3774
governments and agencies of federal, state, and local governments	3775
in the coordination of programs to carry out the functions and	3776
duties of the department;	3777
(4) Encourage and foster research and development activities,	3778
conduct studies related to the solution of community problems, and	3779
develop recommendations for administrative or legislative actions,	3780
as provided in section 122.03 of the Revised Code;	3781
(5) Serve as the economic and community development planning	3782
agency, which shall prepare and recommend plans and programs for	3783
the orderly growth and development of this state and which shall	3784
provide planning assistance, as provided in section 122.06 of the	3785
Revised Code;	3786
(6) Cooperate with and provide technical assistance to state	3787
departments, political subdivisions, regional and local planning	3788
commissions, tourist associations, councils of government,	3789

community development groups, community action agencies, and other 3790
appropriate organizations for carrying out the functions and 3791
duties of the department or for the solution of community 3792
problems; 3793

(7) Coordinate the activities of state agencies that have an 3794
impact on carrying out the functions and duties of the department; 3795

(8) Encourage and assist the efforts of and cooperate with 3796
local governments to develop mutual and cooperative solutions to 3797
their common problems that relate to carrying out the purposes of 3798
this section; 3799

(9) Study existing structure, operations, and financing of 3800
regional or local government and those state activities that 3801
involve significant relations with regional or local governmental 3802
units, recommend to the governor and to the general assembly such 3803
changes in these provisions and activities as will improve the 3804
operations of regional or local government, and conduct other 3805
studies of legal provisions that affect problems related to 3806
carrying out the purposes of this section; 3807

(10) Create and operate a division of community development 3808
to develop and administer programs and activities that are 3809
authorized by federal statute or the Revised Code; 3810

(11) Until October 15, ~~2005~~ 2007, establish fees and charges, 3811
in consultation with the director of agriculture, for purchasing 3812
loans from financial institutions and providing loan guarantees 3813
under the family farm loan program created under sections 901.80 3814
to 901.83 of the Revised Code; 3815

(12) Provide loan servicing for the loans purchased and loan 3816
guarantees provided under section 901.80 of the Revised Code as 3817
that section existed prior to October 15, ~~2005~~ 2007; 3818

(13) Until October 15, ~~2005~~ 2007, and upon approval by the 3819

controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

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

Sec. 122.083. (A) The director of development shall administer a shovel ready sites program to provide grants for projects to port authorities and development entities approved by the director. Grants may be used to pay the costs of any or all of the following:

(1) Acquisition of property, including options;

(2) Preparation of sites, including brownfield clean-up activities;

(3) Construction of road, water, telecommunication, and utility infrastructure;

(4) Payment of professional fees the amount of which shall not exceed twenty per cent of the grant amount for a project.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish procedures and requirements necessary for the administration of the program, including a requirement that a recipient of a grant enter into an agreement with the director governing the use of the grant.

(C) There is hereby created in the state treasury the shovel

ready sites fund consisting of money appropriated to it. Money in 3850
the fund shall be used solely for the purposes of this section. 3851

Sec. 122.17. (A) As used in this section: 3852

(1) "Full-time employee" means an individual who is employed 3853
for consideration for at least thirty-five hours a week, or who 3854
renders any other standard of service generally accepted by custom 3855
or specified by contract as full-time employment. 3856

(2) "New employee" means one of the following: 3857

(a) A full-time employee first employed by a taxpayer in the 3858
project that is the subject of the agreement after the taxpayer 3859
enters into a tax credit agreement with the tax credit authority 3860
under this section; 3861

(b) A full-time employee first employed by a taxpayer in the 3862
project that is the subject of the tax credit after the tax credit 3863
authority approves a project for a tax credit under this section 3864
in a public meeting, as long as the taxpayer enters into the tax 3865
credit agreement prepared by the department of development after 3866
such meeting within sixty days after receiving the agreement from 3867
the department. If the taxpayer fails to enter into the agreement 3868
within sixty days, "new employee" has the same meaning as under 3869
division (A)(2)(a) of this section. 3870

Under division (A)(2)(a) or (b) of this section, if the tax 3871
credit authority determines it appropriate, "new employee" also 3872
may include an employee re-hired or called back from lay-off to 3873
work in a new facility or on a new product or service established 3874
or produced by the taxpayer after entering into the agreement 3875
under this section or after the tax credit authority approves the 3876
tax credit in a public meeting. Except as otherwise provided in 3877
this paragraph, "new employee" does not include any employee of 3878
the taxpayer who was previously employed in this state by a 3879

related member of the taxpayer and whose employment was shifted to 3880
the taxpayer after the taxpayer entered into the tax credit 3881
agreement or after the tax credit authority approved the credit in 3882
a public meeting, or any employee of the taxpayer for which the 3883
taxpayer has been granted a certificate under division (B) of 3884
section 5709.66 of the Revised Code. However, if the taxpayer is 3885
engaged in the enrichment and commercialization of uranium or 3886
uranium products or is engaged in research and development 3887
activities related thereto and if the tax credit authority 3888
determines it appropriate, "new employee" may include an employee 3889
of the taxpayer who was previously employed in this state by a 3890
related member of the taxpayer and whose employment was shifted to 3891
the taxpayer after the taxpayer entered into the tax credit 3892
agreement or after the tax credit authority approved the credit in 3893
a public meeting. "New employee" does not include an employee of 3894
the taxpayer who is employed in an employment position that was 3895
relocated to a project from other operations of the taxpayer in 3896
this state or from operations of a related member of the taxpayer 3897
in this state. In addition, "new employee" does not include a 3898
child, grandchild, parent, or spouse, other than a spouse who is 3899
legally separated from the individual, of any individual who is an 3900
employee of the taxpayer and who has a direct or indirect 3901
ownership interest of at least five per cent in the profits, 3902
capital, or value of the taxpayer. Such ownership interest shall 3903
be determined in accordance with section 1563 of the Internal 3904
Revenue Code and regulations prescribed thereunder. 3905

(3) "New income tax revenue" means the total amount withheld 3906
under section 5747.06 of the Revised Code by the taxpayer during 3907
the taxable year, or during the calendar year that includes the 3908
tax period, from the compensation of new employees for the tax 3909
levied under Chapter 5747. of the Revised Code. 3910

(4) "Related member" has the same meaning as under division 3911

(A)(6) of section 5733.042 of the Revised Code without regard to 3912
division (B) of that section. 3913

(B) The tax credit authority may make grants under this 3914
section to foster job creation in this state. Such a grant shall 3915
take the form of a refundable credit allowed against the tax 3916
imposed by section 5733.06 or 5747.02 of the Revised Code for 3917
taxable years ending prior to 2008 and against the tax levied by 3918
Chapter 5751. of the Revised Code for tax periods beginning on or 3919
after July 1, 2008. The credit shall be claimed for the taxable 3920
years or tax periods specified in the taxpayer's agreement with 3921
the tax credit authority under division (D) of this section. The 3922
credit shall be claimed ~~after the allowance of all other credits~~ 3923
~~provided by Chapter 5733. or 5747. in the order required under~~ 3924
section 5733.98, 5747.98, or 5751.98 of the Revised Code. The 3925
amount of the credit available for a taxable year or for a 3926
calendar year that includes a tax period equals the new income tax 3927
revenue for ~~the taxable~~ that year multiplied by the percentage 3928
specified in the agreement with the tax credit authority. 3929

(C) A taxpayer or potential taxpayer who proposes a project 3930
to create new jobs in this state may apply to the tax credit 3931
authority to enter into an agreement for a tax credit under this 3932
section. The director of development shall prescribe the form of 3933
the application. After receipt of an application, the authority 3934
may enter into an agreement with the taxpayer for a credit under 3935
this section if it determines all of the following: 3936

(1) The taxpayer's project will create new jobs in this 3937
state; 3938

(2) The taxpayer's project is economically sound and will 3939
benefit the people of this state by increasing opportunities for 3940
employment and strengthening the economy of this state; 3941

(3) Receiving the tax credit is a major factor in the 3942

taxpayer's decision to go forward with the project. 3943

(D) An agreement under this section shall include all of the 3944
following: 3945

(1) A detailed description of the project that is the subject 3946
of the agreement; 3947

(2) The term of the tax credit, which shall not exceed 3948
fifteen years, and the first taxable year, or first calendar year 3949
that includes a tax period, for which the credit may be claimed; 3950

(3) A requirement that the taxpayer shall maintain operations 3951
at the project location for at least twice the number of years as 3952
the term of the tax credit; 3953

(4) The percentage, as determined by the tax credit 3954
authority, of new income tax revenue that will be allowed as the 3955
amount of the credit for each taxable year or for each calendar 3956
year that includes a tax period; 3957

(5) A specific method for determining how many new employees 3958
are employed during a taxable year or during a calendar year that 3959
includes a tax period; 3960

(6) A requirement that the taxpayer annually shall report to 3961
the director of development the number of new employees, the new 3962
income tax revenue withheld in connection with the new employees, 3963
and any other information the director needs to perform the 3964
director's duties under this section; 3965

(7) A requirement that the director of development annually 3966
shall verify the amounts reported under division (D)(6) of this 3967
section, and after doing so shall issue a certificate to the 3968
taxpayer stating that the amounts have been verified; 3969

(8)(a) A provision requiring that the taxpayer, except as 3970
otherwise provided in division (D)(8)(b) of this section, shall 3971
not relocate employment positions from elsewhere in this state to 3972

the project site that is the subject of the agreement for the 3973
lesser of five years from the date the agreement is entered into 3974
or the number of years the taxpayer is entitled to claim the tax 3975
credit. 3976

(b) The taxpayer may relocate employment positions from 3977
elsewhere in this state to the project site that is the subject of 3978
the agreement if the director of development determines both of 3979
the following: 3980

(i) That the site from which the employment positions would 3981
be relocated is inadequate to meet market and industry conditions, 3982
expansion plans, consolidation plans, or other business 3983
considerations affecting the taxpayer; 3984

(ii) That the legislative authority of the county, township, 3985
or municipal corporation from which the employment positions would 3986
be relocated has been notified of the relocation. 3987

For purposes of this section, the movement of an employment 3988
position from one political subdivision to another political 3989
subdivision shall be considered a relocation of an employment 3990
position, but the transfer of an individual employee from one 3991
political subdivision to another political subdivision shall not 3992
be considered a relocation of an employment position as long as 3993
the individual's employment position in the first political 3994
subdivision is refilled. 3995

(E) If a taxpayer fails to meet or comply with any condition 3996
or requirement set forth in a tax credit agreement, the tax credit 3997
authority may amend the agreement to reduce the percentage or term 3998
of the tax credit. The reduction of the percentage or term shall 3999
take effect in the taxable year immediately following the taxable 4000
year in which the authority amends the agreement or in the first 4001
tax period beginning in the calendar year immediately following 4002
the calendar year in which the authority amends the agreement. If 4003

the taxpayer relocates employment positions in violation of the 4004
provision required under division (D)(8)(a) of this section, the 4005
taxpayer shall not claim the tax credit under section 5733.0610 of 4006
the Revised Code for any tax years following the calendar year in 4007
which the relocation occurs, or shall not claim the tax credit 4008
under section 5747.058 of the Revised Code for the taxable year in 4009
which the relocation occurs and any subsequent taxable years, and 4010
shall not claim the tax credit under division (A) of section 4011
5751.50 of the Revised Code for any tax period in the calendar 4012
year in which the relocation occurs and any subsequent tax 4013
periods. 4014

(F) Projects that consist solely of point-of-final-purchase 4015
retail facilities are not eligible for a tax credit under this 4016
section. If a project consists of both point-of-final-purchase 4017
retail facilities and nonretail facilities, only the portion of 4018
the project consisting of the nonretail facilities is eligible for 4019
a tax credit and only the new income tax revenue from new 4020
employees of the nonretail facilities shall be considered when 4021
computing the amount of the tax credit. If a warehouse facility is 4022
part of a point-of-final-purchase retail facility and supplies 4023
only that facility, the warehouse facility is not eligible for a 4024
tax credit. Catalog distribution centers are not considered 4025
point-of-final-purchase retail facilities for the purposes of this 4026
division, and are eligible for tax credits under this section. 4027

(G) Financial statements and other information submitted to 4028
the department of development or the tax credit authority by an 4029
applicant or recipient of a tax credit under this section, and any 4030
information taken for any purpose from such statements or 4031
information, are not public records subject to section 149.43 of 4032
the Revised Code. However, the chairperson of the authority may 4033
make use of the statements and other information for purposes of 4034
issuing public reports or in connection with court proceedings 4035

concerning tax credit agreements under this section. Upon the
request of the tax commissioner, the chairperson of the authority
shall provide to the commissioner any statement or information
submitted by an applicant or recipient of a tax credit in
connection with the credit. The commissioner shall preserve the
confidentiality of the statement or information.

(H) A taxpayer claiming a credit under this section shall
submit to the tax commissioner a copy of the director of
development's certificate of verification under division (D)(7) of
this section for the taxable year or for the calendar year that
includes the tax period. However, failure to submit a copy of the
certificate does not invalidate a claim for a credit.

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

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

or profit is distributed.

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

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

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

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

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In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time limitations on assessments under ~~Chapter 5733. or 5747. of~~

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~~the Revised Code~~ those chapters do not apply to an assessment 4099
under this division, but the commissioner shall make the 4100
assessment within one year after the date the authority certifies 4101
to the commissioner the amount to be refunded. 4102

(L) On or before the thirty-first day of March each year, the 4103
director of development shall submit a report to the governor, the 4104
president of the senate, and the speaker of the house of 4105
representatives on the tax credit program under this section. The 4106
report shall include information on the number of agreements that 4107
were entered into under this section during the preceding calendar 4108
year, a description of the project that is the subject of each 4109
such agreement, and an update on the status of projects under 4110
agreements entered into before the preceding calendar year. 4111

~~During the fifth year of the tax credit program, the director 4112
of development in conjunction with the director of budget and 4113
management shall conduct an evaluation of it. The evaluation shall 4114
include assessments of the effectiveness of the program in 4115
creating new jobs in this state and of the revenue impact of the 4116
program, and may include a review of the practices and experiences 4117
of other states with similar programs. The director of development 4118
shall submit a report on the evaluation to the governor, the 4119
president of the senate, and the speaker of the house of 4120
representatives on or before January 1, 1998.~~ 4121

(M) There is hereby created the tax credit authority, which 4122
consists of the director of development and four other members 4123
appointed as follows: the governor, the president of the senate, 4124
and the speaker of the house of representatives each shall appoint 4125
one member who shall be a specialist in economic development; the 4126
governor also shall appoint a member who is a specialist in 4127
taxation. Of the initial appointees, the members appointed by the 4128
governor shall serve a term of two years; the members appointed by 4129
the president of the senate and the speaker of the house of 4130

representatives shall serve a term of four years. Thereafter, 4131
terms of office shall be for four years. Initial appointments to 4132
the authority shall be made within thirty days after January 13, 4133
1993. Each member shall serve on the authority until the end of 4134
the term for which the member was appointed. Vacancies shall be 4135
filled in the same manner provided for original appointments. Any 4136
member appointed to fill a vacancy occurring prior to the 4137
expiration of the term for which the member's predecessor was 4138
appointed shall hold office for the remainder of that term. 4139
Members may be reappointed to the authority. Members of the 4140
authority shall receive their necessary and actual expenses while 4141
engaged in the business of the authority. The director of 4142
development shall serve as chairperson of the authority, and the 4143
members annually shall elect a vice-chairperson from among 4144
themselves. Three members of the authority constitute a quorum to 4145
transact and vote on the business of the authority. The majority 4146
vote of the membership of the authority is necessary to approve 4147
any such business, including the election of the vice-chairperson. 4148

The director of development may appoint a professional 4149
employee of the department of development to serve as the 4150
director's substitute at a meeting of the authority. The director 4151
shall make the appointment in writing. In the absence of the 4152
director from a meeting of the authority, the appointed substitute 4153
shall serve as chairperson. In the absence of both the director 4154
and the director's substitute from a meeting, the vice-chairperson 4155
shall serve as chairperson. 4156

Sec. 122.171. (A) As used in this section: 4157

(1) "Capital investment project" means a plan of investment 4158
at a project site for the acquisition, construction, renovation, 4159
or repair of buildings, machinery, or equipment, or for 4160
capitalized costs of basic research and new product development 4161

determined in accordance with generally accepted accounting	4162
principles, but does not include any of the following:	4163
(a) Payments made for the acquisition of personal property	4164
through operating leases;	4165
(b) Project costs paid before January 1, 2002, or after	4166
December 31, 2006;	4167
(c) Payments made to a related member as defined in section	4168
5733.042 of the Revised Code <u>or to an elected consolidated</u>	4169
<u>taxpayer or a combined taxpayer as defined in section 5751.01 of</u>	4170
<u>the Revised Code.</u>	4171
(2) "Eligible business" means a business with Ohio operations	4172
satisfying all of the following:	4173
(a) Employed an average of at least one thousand employees in	4174
full-time employment positions at a project site during each of	4175
the twelve months preceding the application for a tax credit under	4176
this section; and	4177
(b) On or after January 1, 2002, has made payments for the	4178
capital investment project of either of the following:	4179
(i) At least two hundred million dollars in the aggregate at	4180
the project site during a period of three consecutive calendar	4181
years including the calendar year that includes a day of the	4182
taxpayer's taxable year <u>or tax period</u> with respect to which the	4183
credit is granted;	4184
(ii) If the average wage of all full-time employment	4185
positions at the project site is greater than four hundred per	4186
cent of the federal minimum wage, at least one hundred million	4187
dollars in the aggregate at the project site during a period of	4188
three consecutive calendar years including the calendar year that	4189
includes a day of the taxpayer's taxable year <u>or tax period</u> with	4190
respect to which the credit is granted.	4191

(c) Is engaged at the project site primarily as a 4192
manufacturer or is providing significant corporate administrative 4193
functions; 4194

(d) Has had a capital investment project reviewed and 4195
approved by the tax credit authority as provided in divisions (C), 4196
(D), and (E) of this section. 4197

(3) "Full-time employment position" means a position of 4198
employment for consideration for at least thirty-five hours a week 4199
that has been filled for at least one hundred eighty days 4200
immediately preceding the filing of an application under this 4201
section and for at least one hundred eighty days during each 4202
taxable year or each calendar year that includes a tax period with 4203
respect to which the credit is granted. 4204

(4) "Manufacturer" has the same meaning as in section 4205
5739.011 of the Revised Code. 4206

(5) "Project site" means an integrated complex of facilities 4207
in this state, as specified by the tax credit authority under this 4208
section, within a fifteen-mile radius where a taxpayer is 4209
primarily operating as an eligible business. 4210

(6) "Applicable corporation" means a corporation satisfying 4211
all of the following: 4212

(a)(i) For the entire taxable year immediately preceding the 4213
tax year, the corporation develops software applications primarily 4214
to provide telecommunication billing and information services 4215
through outsourcing or licensing to domestic or international 4216
customers. 4217

(ii) Sales and licensing of software generated at least six 4218
hundred million dollars in revenue during the taxable year 4219
immediately preceding the tax year the corporation is first 4220
entitled to claim the credit provided under division (B) of this 4221

section. 4222

(b) For the entire taxable year immediately preceding the tax 4223
year, the corporation or one or more of its related members 4224
provides customer or employee care and technical support for 4225
clients through one or more contact centers within this state, and 4226
the corporation and its related members together have a daily 4227
average, based on a ~~three hundred sixty five day~~ 4228
three-hundred-sixty-five-day year, of at least five hundred 4229
thousand successful customer contacts through one or more of their 4230
contact centers, wherever located. 4231

(c) The corporation is eligible for the credit under division 4232
(B) of this section for the tax year. 4233

(7) "Related member" has the same meaning as in section 4234
5733.042 of the Revised Code as that section existed on the 4235
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 4236
general assembly, September 29, 1997. 4237

(8) "Successful customer contact" means a contact with an end 4238
user via telephone, including interactive voice recognition or 4239
similar means, where the contact culminates in a conversation or 4240
connection other than a busy signal or equipment busy. 4241

(9) "Telecommunications" means all forms of 4242
telecommunications service as defined in section 5739.01 of the 4243
Revised Code, and includes services in wireless, wireline, cable, 4244
broadband, internet protocol, and satellite. 4245

(10)(a) "Applicable difference" means the difference between 4246
the tax for the tax year under Chapter 5733. of the Revised Code 4247
applying the law in effect for that tax year, and the tax for that 4248
tax year if section 5733.042 of the Revised Code applied as that 4249
section existed on the effective date of its amendment by Am. Sub. 4250
H.B. 215 of the 122nd general assembly, September 29, 1997, 4251
subject to division (A)(10)(b) of this section. 4252

(b) If the tax rate set forth in division (B) of section 4253
5733.06 of the Revised Code for the tax year is less than eight 4254
and one-half per cent, the tax calculated under division 4255
(A)(10)(a) of this section shall be computed by substituting a tax 4256
rate of eight and one-half per cent for the rate set forth in 4257
division (B) of section 5733.06 of the Revised Code for the tax 4258
year. 4259

(c) If the resulting difference is negative, the applicable 4260
tax difference for the tax year shall be zero. 4261

(B) The tax credit authority created under section 122.17 of 4262
the Revised Code may grant tax credits under this section for the 4263
purpose of fostering job retention in this state. Upon application 4264
by an eligible business and upon consideration of the 4265
recommendation of the director of budget and management, tax 4266
commissioner, and director of development under division (C) of 4267
this section, the tax credit authority may grant to an eligible 4268
business a nonrefundable credit against the tax imposed by section 4269
5733.06 or 5747.02 of the Revised Code for taxable years ending 4270
before 2008 for a period up to fifteen taxable years and against 4271
the tax levied by Chapter 5751. of the Revised Code for tax 4272
periods beginning on or after July 1, 2008, for a period of up to 4273
fifteen calendar years. The credit shall be in an amount not 4274
exceeding seventy-five per cent of the Ohio income tax withheld 4275
from the employees of the eligible business occupying full-time 4276
employment positions at the project site during the calendar year 4277
that includes the last day of such business' taxable year or tax 4278
period with respect to which the credit is granted. The amount of 4279
the credit shall not be based on the Ohio income tax withheld from 4280
full-time employees for a calendar year prior to the calendar year 4281
in which the minimum investment requirement referred to in 4282
division (A)(2)(b) of this section is completed. The credit shall 4283
be claimed only for the taxable years or tax periods specified in 4284

the eligible business' agreement with the tax credit authority 4285
under division (E) of this section, but in no event shall the 4286
credit be claimed for a taxable year or tax period terminating 4287
before the date specified in the agreement. 4288

The credit computed under this division is in addition to any 4289
credit allowed under division (M) of this section which the tax 4290
credit authority may also include in the agreement. 4291

Any unused portion of a tax credit may be carried forward for 4292
not more than three additional years after the year for which the 4293
credit is granted. 4294

(C) A taxpayer that proposes a capital investment project to 4295
retain jobs in this state may apply to the tax credit authority to 4296
enter into an agreement for a tax credit under this section. The 4297
director of development shall prescribe the form of the 4298
application. After receipt of an application, the authority shall 4299
forward copies of the application to the director of budget and 4300
management, the tax commissioner, and the director of development, 4301
each of whom shall review the application to determine the 4302
economic impact the proposed project would have on the state and 4303
the affected political subdivisions and shall submit a summary of 4304
their determinations and recommendations to the authority. ~~The~~ 4305
~~authority shall make no agreements under this section after June~~ 4306
~~30, 2007.~~ 4307

(D) Upon review of the determinations and recommendations 4308
described in division (C) of this section, the tax credit 4309
authority may enter into an agreement with the taxpayer for a 4310
credit under this section if the authority determines all of the 4311
following: 4312

(1) The taxpayer's capital investment project will result in 4313
the retention of full-time employment positions in this state. 4314

(2) The taxpayer is economically sound and has the ability to 4315

complete the proposed capital investment project. 4316

(3) The taxpayer intends to and has the ability to maintain 4317
operations at the project site for at least twice the term of the 4318
credit. 4319

(4) Receiving the credit is a major factor in the taxpayer's 4320
decision to begin, continue with, or complete the project. 4321

(5) The political subdivisions in which the project is 4322
located have agreed to provide substantial financial support to 4323
the project. 4324

(E) An agreement under this section shall include all of the 4325
following: 4326

(1) A detailed description of the project that is the subject 4327
of the agreement, including the amount of the investment, the 4328
period over which the investment has been or is being made, and 4329
the number of full-time employment positions at the project site. 4330

(2) The method of calculating the number of full-time 4331
employment positions as specified in division (A)(3) of this 4332
section. 4333

(3) The term and percentage of the tax credit, and the first 4334
year for which the credit may be claimed. 4335

(4) A requirement that the taxpayer maintain operations at 4336
the project site for at least twice the number of years as the 4337
term of the credit. 4338

(5) A requirement that the taxpayer retain a specified number 4339
of full-time employment positions at the project site and within 4340
this state for the term of the credit, including a requirement 4341
that the taxpayer continue to employ at least one thousand 4342
employees in full-time employment positions at the project site 4343
during the entire term of any agreement, subject to division 4344
(E)(7) of this section. 4345

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

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

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

(b) The taxpayer may relocate employment positions from

elsewhere in this state to the project site that is the subject of 4378
the agreement if the director of development determines both of 4379
the following: 4380

(i) That the site from which the employment positions would 4381
be relocated is inadequate to meet market and industry conditions, 4382
expansion plans, consolidation plans, or other business 4383
considerations affecting the taxpayer; 4384

(ii) That the legislative authority of the county, township, 4385
or municipal corporation from which the employment positions would 4386
be relocated has been notified of the relocation. 4387

For purposes of this section, the movement of an employment 4388
position from one political subdivision to another political 4389
subdivision shall be considered a relocation of an employment 4390
position unless the movement is confined to the project site. The 4391
transfer of an individual employee from one political subdivision 4392
to another political subdivision shall not be considered a 4393
relocation of an employment position as long as the individual's 4394
employment position in the first political subdivision is 4395
refilled. 4396

(9) A waiver by the taxpayer of any limitations periods 4397
relating to assessments or adjustments resulting from the 4398
taxpayer's failure to comply with the agreement. 4399

(F) If a taxpayer fails to meet or comply with any condition 4400
or requirement set forth in a tax credit agreement, the tax credit 4401
authority may amend the agreement to reduce the percentage or term 4402
of the credit. The reduction of the percentage or term shall take 4403
effect in the taxable year immediately following the taxable year 4404
in which the authority amends the agreement or in the first tax 4405
period beginning in the calendar year immediately following the 4406
calendar year in which the authority amends the agreement. If the 4407
taxpayer relocates employment positions in violation of the 4408

provision required under division (D)(8)(a) of this section, the 4409
taxpayer shall not claim the tax credit under section 5733.0610 of 4410
the Revised Code for any tax years following the calendar year in 4411
which the relocation occurs, ~~or~~ shall not claim the tax credit 4412
under section 5747.058 of the Revised Code for the taxable year in 4413
which the relocation occurs and any subsequent taxable years, and 4414
shall not claim the tax credit under division (A) of section 4415
5751.50 of the Revised Code for the tax period in which the 4416
relocation occurs and any subsequent tax periods. 4417

(G) Financial statements and other information submitted to 4418
the department of development or the tax credit authority by an 4419
applicant for or recipient of a tax credit under this section, and 4420
any information taken for any purpose from such statements or 4421
information, are not public records subject to section 149.43 of 4422
the Revised Code. However, the chairperson of the authority may 4423
make use of the statements and other information for purposes of 4424
issuing public reports or in connection with court proceedings 4425
concerning tax credit agreements under this section. Upon the 4426
request of the tax commissioner, the chairperson of the authority 4427
shall provide to the commissioner any statement or other 4428
information submitted by an applicant for or recipient of a tax 4429
credit in connection with the credit. The commissioner shall 4430
preserve the confidentiality of the statement or other 4431
information. 4432

(H) A taxpayer claiming a tax credit under this section shall 4433
submit to the tax commissioner a copy of the director of 4434
development's certificate of verification under division (E)(7) of 4435
this section for the taxable year or for the calendar year that 4436
includes the tax period. However, failure to submit a copy of the 4437
certificate does not invalidate a claim for a credit. 4438

(I) For the purposes of this section, a taxpayer may include 4439
a partnership, a corporation that has made an election under 4440

subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A tax credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(4) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

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

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

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

In determining the portion of the credit to be refunded to 4472
this state, the authority shall consider the effect of market 4473
conditions on the taxpayer's project and whether the taxpayer 4474
continues to maintain other operations in this state. After making 4475
the determination, the authority shall certify the amount to be 4476
refunded to the tax commissioner. The commissioner shall make an 4477
assessment for that amount against the taxpayer under Chapter 4478
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 4479
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 4480
~~Revised Code~~ those chapters do not apply to an assessment under 4481
this division, but the commissioner shall make the assessment 4482
within one year after the date the authority certifies to the 4483
commissioner the amount to be refunded. 4484

If the director of development determines that a taxpayer 4485
that received a tax credit under this section has reduced the 4486
number of employees agreed to under division (E)(5) of this 4487
section by more than ten per cent, the director shall notify the 4488
tax credit authority of the noncompliance. After receiving such 4489
notice, and after providing the taxpayer an opportunity to explain 4490
the noncompliance, the authority may amend the agreement to reduce 4491
the percentage or term of the tax credit. The reduction in the 4492
percentage or term shall take effect in the taxable year, or in 4493
the calendar year that includes the tax period, in which the 4494
authority amends the agreement. 4495

(K) The director of development, after consultation with the 4496
tax commissioner and in accordance with Chapter 119. of the 4497
Revised Code, shall adopt rules necessary to implement this 4498
section. The rules may provide for recipients of tax credits under 4499
this section to be charged fees to cover administrative costs of 4500
the tax credit program. At the time the director gives public 4501
notice under division (A) of section 119.03 of the Revised Code of 4502
the adoption of the rules, the director shall submit copies of the 4503

proposed rules to the chairpersons of the standing committees on 4504
economic development in the senate and the house of 4505
representatives. 4506

(L) On or before the thirty-first day of March of each year, 4507
the director of development shall submit a report to the governor, 4508
the president of the senate, and the speaker of the house of 4509
representatives on the tax credit program under this section. The 4510
report shall include information on the number of agreements that 4511
were entered into under this section during the preceding calendar 4512
year, a description of the project that is the subject of each 4513
such agreement, and an update on the status of projects under 4514
agreements entered into before the preceding calendar year. 4515

(M)(1) A nonrefundable credit shall be allowed to an 4516
applicable corporation and its related members in an amount equal 4517
to the applicable difference. The credit is in addition to the 4518
credit granted to the corporation or related members under 4519
division (B) of this section. The credit is subject to divisions 4520
(B) to (E) and division (J) of this section. 4521

(2) A person qualifying as an applicable corporation under 4522
this section for a tax year does not necessarily qualify as an 4523
applicable corporation for any other tax year. No person is 4524
entitled to the credit allowed under division (M) of this section 4525
for the tax year immediately following the taxable year during 4526
which the person fails to meet the requirements in divisions 4527
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 4528
to the credit allowed under division (M) of this section for any 4529
tax year for which the person is not eligible for the credit 4530
provided under division (B) of this section. 4531

Sec. 122.603. (A)(1) Upon approval by the director of 4532
development and after entering into a participation agreement with 4533
the department of development, a participating financial 4534

institution making a capital access loan shall establish a program 4535
reserve account. The account shall be an interest-bearing account 4536
and shall contain only moneys deposited into it under the program 4537
and the interest payable on the moneys in the account. 4538

(2) All interest payable on the moneys in the program reserve 4539
account shall be added to the moneys and held as an additional 4540
loss reserve. The director may require that a portion or all of 4541
the accrued interest so held in the account be released to the 4542
department. If the director causes a release of accrued interest, 4543
the director shall deposit the released amount into the capital 4544
access loan program fund created in section 122.601 of the Revised 4545
Code. The director shall not require the release of that accrued 4546
interest more than twice in a fiscal year. 4547

(B) When a participating financial institution makes a 4548
capital access loan, it shall require the eligible business to pay 4549
to the participating financial institution a fee in an amount that 4550
is not less than one and one-half per cent, and not more than 4551
three per cent, of the principal amount of the loan. The 4552
participating financial institution shall deposit the fee into its 4553
program reserve account, and it also shall deposit into the 4554
account an amount of its own funds equal to the amount of the fee. 4555
The participating financial institution may recover from the 4556
eligible business all or part of the amount that the participating 4557
financial institution is required to deposit into the account 4558
under this division in any manner agreed to by the participating 4559
financial institution and the eligible business. 4560

(C) For each capital access loan made by a participating 4561
financial institution, the participating financial institution 4562
shall certify to the director, within a period specified by the 4563
director, that the participating financial institution has made 4564
the loan. The certification shall include the amount of the loan, 4565

the amount of the fee received from the eligible business, the
amount of its own funds that the participating financial
institution deposited into its program reserve account to reflect
that fee, and any other information specified by the director.

(D) ~~On~~ Upon receipt of each of the first three certifications
from a participating financial institution made under division (C)
of this section and subject to section 122.602 of the Revised
Code, the director shall disburse to the participating financial
institution from the capital access loan program fund an amount
equal to fifty per cent of the principal amount of the particular
capital access loan for deposit into the participating financial
institution's program reserve account. Thereafter, upon receipt of
a certification from that participating financial institution made
under division (C) of this section and subject to section 122.602
of the Revised Code, the director shall disburse to the
participating financial institution from the capital access loan
program fund an amount equal to ten per cent of the principal
amount of the particular capital access loan for deposit into the
participating financial institution's program reserve account. The
disbursement of moneys from the fund to a participating financial
institution does not require approval from the controlling board.

(E) If the amount in a program reserve account exceeds an
amount equal to thirty-three per cent of a participating financial
institution's outstanding capital access loans, the department may
cause the withdrawal of the excess amount and the deposit of the
withdrawn amount into the capital access loan program fund.

(F)(1) The department may cause the withdrawal of the total
amount in a participating financial institution's program reserve
account if any of the following applies:

(a) The financial institution is no longer eligible to
participate in the program.

(b) The participation agreement expires without renewal by the department or the financial institution.	4597 4598
(c) The financial institution has no outstanding capital access loans.	4599 4600
(d) The financial institution has not made a capital access loan within the preceding twenty-four months.	4601 4602
(2) If the department causes a withdrawal under division (F)(1) of this section, the department shall deposit the withdrawn amount into the <u>capital access loan program</u> fund.	4603 4604 4605
Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:	4606 4607
(A) "Financial institution" means any banking corporation, trust company, insurance company, savings and loan association, building and loan association, or corporation, partnership, federal lending agency, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.	4608 4609 4610 4611 4612
(B) "Project" means any real or personal property connected with or being a part of an industrial, distribution, commercial, or research facility to be acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, with the aid provided under sections 122.71 to 122.83 of the Revised Code, for industrial, commercial, distribution, and research development of the state.	4613 4614 4615 4616 4617 4618 4619
(C) "Mortgage" means the lien imposed on a project by a mortgage on real property, or by financing statements on personal property, or a combination of a mortgage and financing statements when a project consists of both real and personal property.	4620 4621 4622 4623
(D) "Mortgagor" means the principal user of a project or the person, corporation, partnership, or association unconditionally guaranteeing performance by the principal user of its obligations	4624 4625 4626

under the mortgage. 4627

(E)(1) "Minority business enterprise" means an individual who 4628
is a United States citizen and owns and controls a business, or a 4629
partnership, corporation, or joint venture of any kind that is 4630
owned and controlled by United States citizens, which citizen or 4631
citizens are residents of this state and are members of one of the 4632
following economically disadvantaged groups: Blacks or African 4633
Americans, American Indians, Hispanics or Latinos, and ~~Oriental~~ 4634
Asians. 4635

(2) "Owned and controlled" means that at least fifty-one per 4636
cent of the business, including corporate stock if a corporation, 4637
is owned by persons who belong to one or more of the groups set 4638
forth in division (E)(1) of this section, and that those owners 4639
have control over the management and day-to-day operations of the 4640
business and an interest in the capital, assets, and profits and 4641
losses of the business proportionate to their percentage of 4642
ownership. In order to qualify as a minority business enterprise, 4643
a business shall have been owned and controlled by those persons 4644
at least one year prior to being awarded a contract pursuant to 4645
this section. 4646

(F) "Community improvement corporation" means a corporation 4647
organized under Chapter 1724. of the Revised Code. 4648

(G) "Ohio development corporation" means a corporation 4649
organized under Chapter 1726. of the Revised Code. 4650

(H) "Minority contractors business assistance organization" 4651
means an entity engaged in the provision of management and 4652
technical business assistance to minority business enterprise 4653
entrepreneurs. 4654

(I) "Minority business supplier development council" means a 4655
nonprofit organization established as an affiliate of the national 4656
minority supplier development council. 4657

(J) "Regional economic development entity" means an entity 4658
that is under contract with the director of development to 4659
administer a loan program under this chapter in a particular area 4660
of the state. 4661

Sec. 122.72. (A) There is hereby created the minority 4662
development financing advisory board to assist in carrying out the 4663
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 4664
the Revised Code. 4665

(B) The board shall consist of ~~seven~~ ten members. The 4666
director of development or the director's designee shall be a 4667
voting member on the board. Seven members shall be appointed by 4668
the governor with the advice and consent of the senate and 4669
selected because of their knowledge of and experience in 4670
industrial, business, and commercial financing, suretyship, 4671
construction, and their understanding of the problems of minority 4672
business enterprises; one member also shall be a member of the 4673
senate and appointed by the president of the senate, and one 4674
member also shall be a member of the house of representatives and 4675
appointed by the speaker of the house of representatives. With 4676
respect to the board, all of the following apply: 4677

(1) Not more than four of the members of the board appointed 4678
by the governor shall be of the same political party. 4679

(2) Each member shall hold office from the date of the 4680
member's appointment until the end of the term for which the 4681
member was appointed. 4682

(3) The terms of office for the seven members appointed by 4683
the governor shall be for seven years, commencing on the first day 4684
of October and ending on the thirtieth day of September of the 4685
seventh year, except that of the original seven members, three 4686
shall be appointed for three years and two shall be appointed for 4687

- five years. 4688
- (4) Any member of the board is eligible for reappointment. 4689
- (5) Any member appointed to fill a vacancy occurring prior to 4690
the expiration of the term for which ~~his~~ the member's predecessor 4691
was appointed shall hold office for the remainder of ~~his~~ the 4692
predecessor's term. 4693
- (6) Any member shall continue in office subsequent to the 4694
expiration date of ~~his~~ the member's term until ~~his~~ the member's 4695
successor takes office, or until a period of sixty days has 4696
elapsed, whichever occurs first. 4697
- (7) Before entering upon ~~his~~ official duties as a member of 4698
the board, each member shall take an oath as provided by Section 7 4699
of Article XV, Ohio Constitution. 4700
- (8) The governor may, at any time, remove any member 4701
appointed by ~~him~~ the governor pursuant to section 3.04 of the 4702
Revised Code. 4703
- (9) Notwithstanding section 101.26 of the Revised Code, 4704
members shall receive their necessary and actual expenses while 4705
engaged in the business of the board and shall be paid at the per 4706
diem rate of step 1 of pay range 31 of section 124.15 of the 4707
Revised Code. 4708
- (10) ~~Five~~ Four members of the board constitute a quorum and 4709
the affirmative vote of ~~five members~~ a majority of the quorum is 4710
necessary for any action taken by the board. 4711
- (11) In the event of the absence of a member appointed by the 4712
president of the senate or by the speaker of the house of 4713
representatives, either of the following persons may serve in the 4714
member's absence: 4715
- (a) The president of the senate or the speaker of the house 4716
of representatives, whoever appointed the absent member; 4717

(b) A member of the senate or of the house of representatives 4718
of the same political party as the absent member, as designated by 4719
the president of the senate or the speaker of the house of 4720
representatives, whoever appointed the absent member. 4721

(12) The board shall annually elect one of its members as 4722
~~chairman~~ chairperson and another as ~~vice-chairman~~ 4723
vice-chairperson. 4724

Sec. 122.73. (A) The minority development financing advisory 4725
board and the director of development are invested with the powers 4726
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the 4727
Revised Code, in order to promote the welfare of the people of the 4728
state by encouraging the establishment and expansion of minority 4729
business enterprises~~;~~i to stabilize the economy~~;~~i to provide 4730
employment~~;~~i to assist in the development within the state of 4731
industrial, commercial, distribution, and research activities 4732
required for the people of the state, and for their gainful 4733
employment~~;~~i or otherwise to create or preserve jobs and 4734
employment opportunities, or improve the economic welfare of the 4735
people of the state. It is hereby determined that the 4736
accomplishment of those purposes is essential so that the people 4737
of the state may maintain their present high standards of living 4738
in comparison with the people of other states and so that 4739
opportunities for employment and for favorable markets for the 4740
products of the state's natural resources, agriculture, and 4741
manufacturing shall be improved ~~and~~. It further is determined that 4742
it is necessary for the state to establish the programs authorized 4743
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 4744
establish the minority development financing advisory board, and 4745
to invest it and the director of development with the powers and 4746
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 4747
Code. 4748

(B) The minority development financing advisory board shall 4749
do all of the following: 4750

(1) Make recommendations to the director as to applications 4751
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 4752
Revised Code. The board may revise its recommendations to reflect 4753
any changes in the proposed assistance made by the director. 4754

(2) Advise the director in the administration of sections 4755
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4756

(3) Adopt bylaws to govern the conduct of the business of the 4757
board. 4758

Sec. 122.74. (A)(1) The director of development shall do all 4759
of the following: 4760

~~(1)~~(a) Receive applications for assistance under sections 4761
122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 4762
but subject to division (A)(2) of this section, forward them to 4763
the minority development financing advisory board together with 4764
necessary supporting information; 4765

~~(2)~~(b) Receive the recommendations of the board and make a 4766
final determination whether to approve the application for 4767
assistance; 4768

~~(3)~~(c) Receive recommendations from a regional economic 4769
development entity for loans made under section 122.76 of the 4770
Revised Code and make a final determination, notwithstanding 4771
divisions (A)(1) and (2) of this section, whether to approve the 4772
proposed loan; 4773

(d) Transmit the director's determinations to approve 4774
assistance to the controlling board together with any information 4775
the controlling board requires for its review and decision as to 4776
whether to approve the assistance. 4777

(2) The director is not required to submit any determination, data, terms, or any other application materials or information to the minority development financing advisory board when provision of the assistance has been recommended to the director by a regional economic development entity.

(B) The director may do all of the following:

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80 ~~and~~, 122.88, and 122.90 of the Revised Code;

(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code.

(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper;

(4) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code;

(5) Maintain, protect, repair, improve, and insure any property that the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on the terms and in the manner as the director considers proper, but the director shall not operate any such property as a business except as the

lessor of it; 4809

(6)(a) When the cost of any contract for the maintenance, 4810
protection, repair, or improvement of any property held by the 4811
director, other than compensation for personal services, involves 4812
an expenditure of more than fifty thousand dollars, the director 4813
shall make a written contract with the lowest responsive and 4814
responsible bidder in accordance with section 9.312 of the Revised 4815
Code after advertisement for not less than two consecutive weeks 4816
in a newspaper of general circulation in the county where such 4817
contract, or some substantial part of it, is to be performed, and 4818
in such other publications as the director determines, which 4819
notice shall state the general character of the work and the 4820
general character of the materials to be furnished, the place 4821
where plans and specifications therefor may be examined, and the 4822
time and place of receiving bids. 4823

(b) Each bid for a contract for the construction, demolition, 4824
alteration, repair, or reconstruction of an improvement shall 4825
contain the full name of every person interested in it and meet 4826
the requirements of section 153.54 of the Revised Code. 4827

(c) Each bid for a contract, except as provided in division 4828
(B)(6)(b) of this section, shall contain the full name of every 4829
person interested in it and shall be accompanied by bond or 4830
certified check on a solvent bank, in such amount as the director 4831
considers sufficient, that if the bid is accepted a contract will 4832
be entered into and the performance of the proposal secured. 4833

(d) The director may reject any and all bids. 4834

(e) A bond with good and sufficient surety, approved by the 4835
director, shall be required of every contractor awarded a contract 4836
except as provided in division (B)(6)(b) of this section, in an 4837
amount equal to at least fifty per cent of the contract price, 4838
conditioned upon faithful performance of the contract. 4839

(7) Employ or contract with financial consultants, 4840
appraisers, consulting engineers, superintendents, managers, 4841
construction and accounting experts, attorneys, and other 4842
employees and agents as are necessary in the director's judgment 4843
and fix their compensation; 4844

(8) Receive and accept grants, gifts, and contributions of 4845
money, property, labor, and other things of value to be held, 4846
used, and applied only for the purpose for which ~~such~~ the grants, 4847
gifts, and contributions are made, from individuals, private and 4848
public corporations, from the United States or any agency thereof, 4849
from the state or any agency thereof, and from any political 4850
subdivision of the state, and may agree to repay any contribution 4851
of money or to return any property contributed or the value 4852
thereof at such times, in ~~such~~ amounts, and on ~~such~~ terms and 4853
conditions, excluding the payment of interest, as the director 4854
determines at the time ~~such~~ the contribution is made, and may 4855
evidence ~~such~~ the obligations by notes, bonds, or other written 4856
instruments; 4857

(9) Establish with the treasurer of state the funds provided 4858
in sections 122.80 and 122.88 of the Revised Code in addition to 4859
such funds as the director determines are necessary or proper; 4860

(10) Adopt rules under Chapter 119. of the Revised Code 4861
necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the 4862
Revised Code. 4863

(11) Do all acts and things necessary or proper to carry out 4864
the powers expressly granted and the duties imposed in sections 4865
122.71 to ~~122.89~~ 122.90 of the Revised Code. 4866

(C)(1) All expenses and obligations incurred by the director 4867
in carrying out the director's powers and in exercising the 4868
director's duties under sections 122.71 to ~~122.89~~ 122.90 of the 4869
Revised Code shall be payable solely from revenues or other 4870

receipts or income of the director, from grants, gifts, and 4871
contributions, or funds established in accordance with such 4872
sections. Such sections do not authorize the director to incur 4873
indebtedness or to impose liability on the state or any political 4874
subdivision of the state. 4875

(2) Financial statements and other data submitted to the 4876
director by any corporation, partnership, or person in connection 4877
with financial assistance provided under sections 122.71 to ~~122.89~~ 4878
122.90 of the Revised Code, or any information taken from such 4879
statements or data for any purpose, shall not be open to public 4880
inspection. 4881

Sec. 122.75. The director of development shall, for the 4882
minority business development loan program ~~and~~, the minority 4883
business bonding program, and the minority business bond guarantee 4884
program under sections 122.87 to ~~122.89~~ 122.90 of the Revised 4885
Code, do all of the following: 4886

(A) Hire employees, consultants, and agents and fix their 4887
compensation; 4888

(B) Adopt bylaws and rules for the regulation of the business 4889
of the minority development financing advisory board; 4890

(C) Receive and accept grants, gifts, and contributions of 4891
money, property, labor, and other things of value, to be held, 4892
used, and applied only for the purpose for which the grants, 4893
gifts, and contributions are made, from individuals, private and 4894
public corporations, the United States or any agency of the United 4895
States, the state or any agency of the state, and any political 4896
subdivision of the state. The director may agree to repay any 4897
contribution of money or to return any property contributed or its 4898
value at such times, in ~~such~~ amounts, and on ~~such~~ terms and 4899
conditions, excluding the payment of interest, as the director 4900
determines at the time the contribution is made. The director may 4901

evidence the obligations by written contracts, subject to section 4902
122.76 of the Revised Code; provided, that the director shall not 4903
thereby incur indebtedness of or impose liability upon the state 4904
or any political subdivision. 4905

(D) Establish funds with the treasurer of state in addition 4906
to the minority business bonding fund created under section 122.88 4907
of the Revised Code; 4908

(E) Invest money in the funds the director establishes 4909
pursuant to division (D) of this section that is in excess of 4910
current needs, in notes, bonds, or other obligations that are 4911
direct obligations of or are guaranteed by the United States, or 4912
in certificates of deposit or withdrawable accounts of banks, 4913
trust companies, ~~and~~ or savings and loan associations organized 4914
under the laws of this state or the United States, and may credit 4915
the income or sell the investments at the director's discretion; 4916

(F) Acquire any property of any kind or character in 4917
accordance with sections 122.71 to 122.83 of the Revised Code, by 4918
purchase, purchase at foreclosure, or exchange on terms and in a 4919
manner the director considers proper; 4920

(G)(1) Maintain, protect, repair, improve, and insure any 4921
property the director has acquired and dispose of it by sale, 4922
exchange, or lease for the consideration and on terms and in a 4923
manner the director considers proper. The director may not operate 4924
any property as a business except as a lessor of the property. 4925
When the cost of any contract for the maintenance, protection, 4926
repair, or improvement of any property of the advisory board 4927
connected with the minority business development loan program, 4928
other than compensation for personal services, involves an 4929
expenditure of more than one thousand dollars, the director shall 4930
enter into a written contract with the lowest and best bidder 4931
after advertisement for not less than four consecutive weeks in a 4932
newspaper of general circulation in the county where the contract, 4933

or some substantial part of it, is to be performed, and in other
publications as the director determines. The notice shall state
the general character of the work and the general character of the
materials to be furnished, the place where plans and
specifications for the work and materials may be examined, and the
time and place of receiving bids.

(2) Each bid for a contract for the construction, demolition,
alteration, repair, or reconstruction of an improvement shall
contain the full name of every person interested in it and meet
the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract, except as provided in division
(G)(2) of this section, shall contain the full name of every
person interested in it and shall be accompanied by a bond or
certified check on a solvent bank, in the amount of ten per cent
of the bid, that if the bid is accepted a contract will be entered
into and the performance of its proposal secured. The director may
reject any or all bids. A bond with good and sufficient surety,
approved by the director, shall be required of all contractors in
an amount equal to at least one hundred per cent of the contract
price, conditioned upon faithful performance of the contract.

(H) Expend money appropriated to the department of
development by the general assembly for the purposes of sections
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code;

(I) Do all acts and things necessary or proper to carry out
the powers expressly granted and the duties imposed in sections
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code.

Sec. 122.751. The minority development financing advisory
board or a regional economic development entity shall only
consider an application for a loan from any applicant after a
certification by the equal employment opportunity coordinator of

the department of administrative services under division (B)(1) of 4964
section 123.151 of the Revised Code that the applicant is a 4965
minority business enterprise, or after a certification by the 4966
minority business supplier development council that the applicant 4967
is a minority business, and that the applicant satisfies all 4968
criteria regarding eligibility for assistance pursuant to section 4969
122.76 of the Revised Code. 4970

Sec. 122.76. (A) The director of development, with 4971
controlling board approval, may lend funds to minority business 4972
enterprises and to community improvement corporations, Ohio 4973
development corporations, minority contractors business assistance 4974
organizations, and minority business supplier development councils 4975
for the purpose of loaning funds to minority business enterprises 4976
and for the purpose of procuring or improving real or personal 4977
property, or both, for the establishment, location, or expansion 4978
of industrial, distribution, commercial, or research facilities in 4979
the state, if the director determines, in the director's sole 4980
discretion, that all of the following apply: 4981

(1) The project is economically sound and will benefit the 4982
people of the state by increasing opportunities for employment, by 4983
strengthening the economy of the state, or expanding minority 4984
business enterprises. 4985

(2) The proposed minority business enterprise borrower is 4986
unable to finance the proposed project through ordinary financial 4987
channels at comparable terms. 4988

(3) The value of the project is or, upon completion, will be 4989
at least equal to the total amount of the money expended in the 4990
procurement or improvement of the project, and one or more 4991
financial institutions or other governmental entities have loaned 4992
not less than thirty per cent of that amount. 4993

(4) The amount to be loaned by the director will not exceed 4994

sixty per cent of the total amount expended in the procurement or
improvement of the project. 4995
4996

(5) The amount to be loaned by the director will be 4997
adequately secured by a first or second mortgage upon the project 4998
or by mortgages, leases, liens, assignments, or pledges on or of 4999
other property or contracts as the director requires, and such 5000
mortgage will not be subordinate to any other liens or mortgages 5001
except the liens securing loans or investments made by financial 5002
institutions referred to in division (A)(3) of this section, and 5003
the liens securing loans previously made by any financial 5004
institution in connection with the procurement or expansion of all 5005
or part of a project. 5006

(B) Any proposed minority business enterprise borrower 5007
submitting an application for assistance under this section shall 5008
not have defaulted on a previous loan from the director, and no 5009
full or limited partner, major shareholder, or holder of an equity 5010
interest of the proposed minority business enterprise borrower 5011
shall have defaulted on a loan from the director. 5012

(C) The proposed minority business enterprise borrower shall 5013
demonstrate to the satisfaction of the director that it is able to 5014
successfully compete in the private sector if it obtains the 5015
necessary financial, technical, or managerial support and that 5016
support is available through the director, the minority business 5017
development office of the department of development, or other 5018
identified and acceptable sources. In determining whether a 5019
minority business enterprise borrower will be able to successfully 5020
compete, the director may give consideration to such factors as 5021
the successful completion of or participation in courses of study, 5022
recognized by the board of regents as providing financial, 5023
technical, or managerial skills related to the operation of the 5024
business, by the economically disadvantaged individual, owner, or 5025
partner, and the prior success of the individual, owner, or 5026

partner in personal, career, or business activities, as well as to 5027
other factors identified by the director. 5028

(D) The director shall not lend funds for the purpose of 5029
procuring or improving motor vehicles, ~~power driven vehicles,~~ 5030
~~office equipment, raw materials, small tools, supplies,~~ 5031
~~inventories,~~ or accounts receivable. 5032

Sec. 122.77. (A) The director of development with controlling 5033
board approval may make loan guarantees to small businesses and 5034
corporations for the purpose of guaranteeing loans made to small 5035
businesses by financial institutions for the purpose of procuring 5036
or improving real or personal property, or both, for the 5037
establishment, location, or expansion of industrial, distribution, 5038
commercial, or research facilities in the state, if the director 5039
determines, in ~~his~~ the director's sole discretion, that all of the 5040
following apply: 5041

(1) The project is economically sound and will benefit the 5042
people of the state by increasing opportunities for employment, by 5043
strengthening the economy of the state, or expanding minority 5044
business enterprises~~±.~~ 5045

(2) The proposed small business borrower is unable to finance 5046
the proposed project through ordinary financial channels at 5047
comparable terms~~±.~~ 5048

(3) The value of the project is, or upon completion of it 5049
will be, at least equal to the total amount of the money expended 5050
in the procurement or improvement of the project and of which 5051
amount one or more financial institutions or other governmental 5052
entities have loaned not less than thirty per cent~~±.~~ 5053

(4) The amount to be guaranteed by the director will not 5054
exceed ~~fifty~~ eighty per cent of the total amount expended in the 5055
procurement or improvement of the project~~±.~~ 5056

(5) The amount to be guaranteed by the director will be 5057
adequately secured by a first or second mortgage upon the project, 5058
or by mortgages, leases, liens, assignments, or pledges on or of 5059
other property or contracts as the director shall require and that 5060
such mortgage will not be subordinate to any other liens or 5061
mortgages except the liens securing loans or investments made by 5062
financial institutions referred to in division (A)(3) of this 5063
section, and the liens securing loans previously made by any 5064
financial institution in connection with the procurement or 5065
expansion of all or part of a project. 5066

(B) The proposed small business borrower shall not have 5067
defaulted on a previous loan or guarantee from the director, and 5068
no full or limited partner, or major shareholder, or holder of any 5069
equity interest of the proposed minority business enterprise 5070
borrower shall have defaulted on a loan or guarantee from the 5071
director. 5072

(C) The proposed small business borrower shall demonstrate to 5073
the satisfaction of the director that it is able to successfully 5074
compete in the private sector if it obtains the necessary 5075
financial, technical, or managerial support and that support is 5076
available through the director, the minority business development 5077
office of the department of development, or other identified and 5078
acceptable sources. In determining whether a small business 5079
borrower will be able to successfully compete, the director may 5080
give consideration to such factors as the successful completion of 5081
or participation in courses of study, recognized by the board of 5082
regents as providing financial, technical, or managerial skills 5083
related to the operation of the business, by the economically 5084
disadvantaged individual, owner, or partner, and the prior success 5085
of the individual, owner, or partner in personal, career, or 5086
business activities, as well as to other factors identified by the 5087
director. 5088

(D) The director shall not guarantee funds for the purpose of 5089
procuring or improving motor vehicles, ~~power driven vehieles,~~ 5090
~~office equipment, raw materials, small tools, supplies,~~ 5091
~~inventories,~~ or accounts receivable. 5092

Sec. 122.78. Fees, charges, rates of interest, times of 5093
payment of interest and principal, and other terms, conditions, 5094
and provisions of the loans and guarantees made by the director of 5095
development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 5096
Revised Code shall be such as the director determines to be 5097
appropriate and in furtherance of the purpose for which the loans 5098
and guarantees are made, but the mortgage lien securing any money 5099
loaned or guaranteed by the director may be subordinate to the 5100
mortgage lien securing any money loaned or invested by a financial 5101
institution, but shall be superior to that securing any money 5102
loaned or expended by any other corporation or person. The funds 5103
used in making these loans or guarantees shall be disbursed upon 5104
order of the director. 5105

Sec. 122.79. The exercise of the powers granted by sections 5106
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all 5107
respects for the benefit of the people of the state, for the 5108
increase of their commerce and prosperity, for the increase and 5109
expansion of minority business enterprises, and for the 5110
improvement of conditions of employment, and will constitute the 5111
performance of essential governmental functions; therefore, the 5112
director of development shall not be required to pay any taxes 5113
upon any property or assets held by ~~him~~ the director, or upon any 5114
property acquired or used by ~~him~~ the director under sections 5115
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 5116
from it, provided that this exemption shall not apply to any 5117
property held by the director while it is in the possession of a 5118
private person, partnership, or corporation and used for private 5119

purposes for profit, in which case such tax liability shall accrue 5120
to ~~such~~ the private person, partnership, or corporation. 5121

Sec. 122.82. All moneys, funds, properties, and assets 5122
acquired by the director of development shall be held by ~~him~~ the 5123
director in trust to carry out ~~his~~ the director's powers and 5124
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 5125
122.90 of the Revised Code, and shall at no time be part of other 5126
public funds. 5127

Sec. 122.83. Any person who intentionally misrepresents that 5128
person's self as owning, controlling, operating, or participating 5129
in a minority business enterprise for the purpose of obtaining 5130
funds, contracts, subcontracts, services, or any other benefits 5131
under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 5132
Revised Code is guilty of theft by deception, pursuant to section 5133
2913.02 of the Revised Code. 5134

Sec. 123.152. (A) As used in this section, "EDGE business 5135
enterprise" means a sole proprietorship, association, partnership, 5136
corporation, limited liability corporation, or joint venture 5137
certified as a participant in the encouraging diversity, growth, 5138
and equity program by the director of administrative services 5139
under this section of the Revised Code. 5140

(B) The director of administrative services shall establish a 5141
business assistance program known as the encouraging diversity, 5142
growth, and equity program and shall adopt rules in accordance 5143
with Chapter 119. of the Revised Code to administer the program 5144
~~and~~ that do all of the following: 5145

(1) Establish procedures by which a sole proprietorship, 5146
association, partnership, corporation, limited liability 5147
corporation, or joint venture may apply for certification as an 5148
EDGE business enterprise; 5149

(2) ~~Establish~~ Except as provided in division (B)(14) of this section, establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code or equivalent code classification.

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

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

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

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

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

(i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment;

(ii) Some other demonstration of personal disadvantage not common to other small businesses;	5180 5181
(iii) By business location in a qualified census tract.	5182
(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.	5183 5184 5185 5186
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	5187 5188 5189
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	5190 5191 5192 5193
(6) Establish a point system <u>or comparable system</u> to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	5194 5195 5196 5197
(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;	5198 5199 5200
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	5201 5202
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	5203 5204 5205
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	5206 5207 5208
(11) Implement a system of self-reporting by EDGE business	5209

enterprises as well as an on-site inspection process to validate 5210
the qualifications of an EDGE business enterprise; 5211

(12) Establish a waiver mechanism to waive program goals or 5212
participation requirements for those companies that, despite their 5213
best-documented efforts, are unable to contract with certified 5214
EDGE business enterprises; 5215

(13) Establish a process for monitoring overall program 5216
compliance in which equal employment opportunity officers 5217
primarily are responsible for monitoring their respective 5218
agencies; 5219

(14) Establish guidelines for state universities as defined 5220
in section 3345.011 of the Revised Code and the Ohio school 5221
facilities commission created in section 3318.30 of the Revised 5222
Code for awarding contracts pursuant to Chapters 153., 3318., and 5223
3345. of the Revised Code to allow the universities and commission 5224
to establish agency procurement goals for contracting with EDGE 5225
business enterprises. 5226

~~(C) Not later than December 31, 2003, the director of 5227~~
~~administrative services shall prepare a detailed report to the 5228~~
~~governor outlining and evaluating the progress made in 5229~~
~~implementing the Business and personal financial information and 5230~~
~~trade secrets submitted by encouraging diversity, growth, and 5231~~
~~equity program applicants to the director pursuant to this section 5232~~
~~are not public records for purposes of section 149.43 of the 5233~~
~~Revised Code, unless the director presents the financial 5234~~
~~information or trade secrets at a public hearing or public 5235~~
~~proceeding regarding the applicant's eligibility to participate in 5236~~
~~the program. 5237~~

Sec. 123.17. (A) As used in this section, "institution of 5238
higher education" means a state university or college, as defined 5239

in section 3345.12 of the Revised Code, or a state community 5240
college. 5241

(B) ~~The~~ Not later than December 30, 2005, the state architect 5242
shall establish a local administration competency certification 5243
program to certify institutions of higher education to administer 5244
capital facilities projects pursuant to section 3345.51 of the 5245
Revised Code without the supervision, control, or approval of the 5246
department of administrative services. The program shall offer 5247
instruction in the administration of capital facilities projects 5248
for employees of institutions of higher education who are 5249
responsible for such administration and who are selected by their 5250
employing institutions to participate in the program. 5251

(C) The program shall provide instruction about the 5252
provisions of Chapters 9., 123., and 153. of the Revised Code and 5253
any rules or policies adopted by the department regarding the 5254
planning, design, and construction of capital facilities, 5255
including all of the following: 5256

(1) The planning, design, and construction process; 5257

(2) Contract requirements; 5258

(3) Construction management; 5259

(4) Project management. 5260

(D) The state architect shall award local administration 5261
competency certification to any institution of higher education if 5262
all of the following apply: 5263

(1) The institution applied for certification on a form and 5264
in a manner prescribed by the state architect. 5265

(2) The state architect determines that a sufficient number 5266
of the institution's employees, representing a sufficient number 5267
of employee classifications, responsible for the administration of 5268
capital facilities projects ~~has~~ have successfully completed the 5269

certification program to ensure that any capital facilities 5270
project undertaken by the institution will be administered 5271
successfully and in accordance with all provisions of the Revised 5272
Code, and the board of trustees of the institution provides 5273
written assurance to the state architect that the institution will 5274
select new employees to participate in the certification program 5275
as necessary to compensate for employee turnover. 5276

(3) The state architect determines that the employees of the 5277
institution enrolled in the program demonstrate successful 5278
completion of the competency certification training and a 5279
satisfactory level of knowledge of and competency in the 5280
requirements for administering capital facilities projects. 5281

(4) The institution pays the fee prescribed by division 5282
~~(E)~~(F) of this section. 5283

(5) The board of trustees of the institution provides written 5284
assurance to the state architect that the institution will conduct 5285
biennial audits of the institution's administration of capital 5286
facilities projects in accordance with division (C) of section 5287
3345.51 of the Revised Code. 5288

(6) The board of trustees of the institution agrees in 5289
writing to indemnify and hold harmless the state and the 5290
department for any claim of injury, loss, or damage that results 5291
from the institution's administration of a capital facilities 5292
project. 5293

(E) Local administration competency certification granted 5294
under this section shall remain in effect for as long as the state 5295
architect determines that both of the following apply: 5296

(1) The institution of higher education maintains a 5297
sufficient number of employees responsible for the administration 5298
of capital facilities projects who have successfully completed the 5299
certification program and have demonstrated a satisfactory level 5300

of knowledge of and competency in the requirements for 5301
administering capital facilities projects; 5302

(2) The institution is performing the biennial audits 5303
prescribed in division (C) of section 3345.51 of the Revised Code. 5304

If the state architect determines that an institution of 5305
higher education has failed to comply with the conditions of 5306
division (E)(1) or (2) of this section, the state architect shall 5307
revoke the institution's certification and shall notify the board 5308
of trustees of the institution in writing of the revocation. 5309

5310
(F) The state architect shall establish, subject to the 5311
approval of the director of budget and management, the amount of 5312
the fee required to be paid by any institution of higher education 5313
that seeks certification under this section. The amount of the 5314
fees shall be set to cover the costs to implement this section, 5315
including the costs for materials and the competency certification 5316
training sessions. Any fees received under this section shall be 5317
paid into the state treasury to the credit of the state 5318
architect's fund established under section 123.10 of the Revised 5319
Code. 5320

~~(F)~~(G) Nothing in this section shall prohibit an institution 5321
that administers a capital facilities project under section 5322
3345.51 of the Revised Code from requesting guidance or other 5323
services from the department of administrative services. 5324

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 5325
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 5326
Revised Code shall be construed as limiting the attorney general, 5327
auditor of state, secretary of state, or treasurer of state in any 5328
of the following: 5329

(A) Purchases for less than the dollar amounts for the 5330

purchase of supplies or services determined pursuant to division	5331
(D) of section 125.05 of the Revised Code;	5332
(B) Purchases that equal or exceed the dollar amounts for the	5333
purchase of supplies or services determined pursuant to division	5334
(D) of section 125.05 of the Revised Code with the approval of the	5335
controlling board, if that approval is required by section 127.16	5336
of the Revised Code;	5337
(C) The final determination of the nature or quantity making	5338
any purchase of supplies or services to be purchased pursuant to	5339
section 125.06 of the Revised Code;	5340
(D) The final determination and disposal of excess and	5341
surplus supplies;	5342
(E) The inventory of state property;	5343
(F) The purchase of printing;	5344
(G) <u>The Activities related to information technology</u>	5345
<u>development and use;</u>	5346
<u>(H) The</u> fleet management program.	5347
Sec. 125.05. Except as provided in division (E) of this	5348
section, no state agency shall purchase any supplies or services	5349
except as provided in divisions (A) to (C) of this section.	5350
(A) Subject to division (D) of this section, a state agency	5351
may, without competitive selection, make any purchase of services	5352
that cost fifty thousand dollars or less or any purchase of	5353
supplies that cost twenty-five thousand dollars or less. The	5354
agency may make the purchase directly or may make the purchase	5355
from or through the department of administrative services,	5356
whichever the agency determines. The department shall establish	5357
written procedures to assist state agencies when they make direct	5358
purchases. If the agency makes the purchase directly, it shall	5359

make the purchase by a term contract whenever possible. 5360

(B) Subject to division (D) of this section, a state agency 5361
wanting to purchase services that cost more than fifty thousand 5362
dollars or supplies that cost more than twenty-five thousand 5363
dollars shall, unless otherwise authorized by law, make the 5364
purchase from or through the department. The department shall make 5365
the purchase by competitive selection under section 125.07 of the 5366
Revised Code. If the director of administrative services 5367
determines that it is not possible or not advantageous to the 5368
state for the department to make the purchase, the department 5369
shall grant the agency a release and permit under section 125.06 5370
of the Revised Code to make the purchase. Section 127.16 of the 5371
Revised Code does not apply to purchases the department makes 5372
under this section. 5373

(C) An agency that has been granted a release and permit to 5374
make a purchase may make the purchase without competitive 5375
selection if after making the purchase the cumulative purchase 5376
threshold as computed under division (F) of section 127.16 of the 5377
Revised Code would: 5378

(1) Be exceeded and the controlling board approves the 5379
purchase; 5380

(2) Not be exceeded and the department of administrative 5381
services approves the purchase. 5382

(D) Not later than January 31, 1997, the amounts specified in 5383
divisions (A) and (B) of this section and, not later than the 5384
thirty-first day of January of each second year thereafter, any 5385
amounts computed by adjustments made under this division, shall be 5386
increased or decreased by the average percentage increase or 5387
decrease in the consumer price index prepared by the United States 5388
bureau of labor statistics (U.S. City Average for Urban Wage 5389
Earners and Clerical Workers: "All Items 1982-1984=100") for the 5390

twenty-four calendar month period prior to the immediately 5391
preceding first day of January over the immediately preceding 5392
twenty-four calendar month period, as reported by the bureau. The 5393
director of administrative services shall make this determination 5394
and adjust the appropriate amounts accordingly. 5395

(E) If ~~the Ohio SchoolNet commission~~, the department of 5396
education, ~~or~~ the Ohio education computer network, or the agency 5397
designated by the governor to assume the functions of the Ohio 5398
SchoolNet commission determines that it can purchase software 5399
services or supplies for specified school districts at a price 5400
less than the price for which the districts could purchase the 5401
same software services or supplies for themselves, the ~~office,~~ 5402
department, ~~or~~ network, or agency shall certify that fact to the 5403
department of administrative services and, acting as an agent for 5404
the specified school districts, shall make that purchase without 5405
following the provisions in divisions (A) to (D) of this section. 5406

Sec. 125.18. (A) There is hereby established the office of 5407
information technology in the department of administrative 5408
services. The office shall be under the supervision of a chief 5409
information officer to be appointed by the governor and subject to 5410
removal at the pleasure of the governor. The chief information 5411
officer shall serve as the director of the office. 5412

(B) The director of the office of information technology 5413
shall advise the governor regarding the superintendence and 5414
implementation of statewide information technology policy. 5415

(C) The director of the office of information technology 5416
shall lead, oversee, and direct state agency activities related to 5417
information technology development and use. In that regard, the 5418
director shall do all of the following: 5419

(1) Coordinate and superintend statewide efforts to promote 5420

common use and development of technology by multiple state agencies. The office of information technology relatedly shall establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

(2) Establish policies and standards for the acquisition and use of information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, with which state agencies shall comply;

(3) Establish criteria and review processes to identify state agency information technology projects that require alignment or oversight. As appropriate, the office of information technology shall provide the governor and the director of budget and management with notice and advice regarding the appropriate allocation of resources for those projects. The director of the office of information technology may require state agencies to provide, and may prescribe the form and manner by which they must provide, information to fulfill the director's alignment and oversight role.

(D) The office of information technology may make contracts for, operate, and superintend technology services for state agencies in accordance with this chapter.

(E) The office of information technology may establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the governor for the provision of technology services and the development of technology projects.

(F) As used in this section, "state agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the auditor of state, treasurer of state, secretary of

state, or attorney general, the general assembly or any 5452
legislative agency, or the courts or any judicial agency. 5453

Sec. 125.831. As used in sections 125.831 to 125.833 of the 5454
Revised Code: 5455

(A) "Law enforcement officer" means an officer, agent, or 5456
employee of a state agency upon whom, by statute, a duty to 5457
conserve the peace or to enforce all or certain laws is imposed 5458
and the authority to arrest violators is conferred, within the 5459
limits of that statutory duty and authority, but does not include 5460
such an officer, agent, or employee if that duty and authority is 5461
location specific. 5462

(B)(1) "Motor vehicle" means any automobile, car minivan, 5463
cargo van, passenger van, sport utility vehicle, or pickup truck 5464
with a gross vehicle weight of under twelve thousand pounds. 5465

(2) "Motor vehicle" does not include, except for the purposes 5466
of division (C) of section 125.832 of the Revised Code, any 5467
vehicle described in division (B)(1) of this section that is used 5468
by a law enforcement officer and law enforcement agency or any 5469
vehicle that is so described and that is equipped with specialized 5470
equipment that is not normally found in such a vehicle and that is 5471
used to carry out a state agency's specific and specialized duties 5472
and responsibilities. 5473

(C) "Specialized equipment" does not include standard mobile 5474
radios with no capabilities other than voice communication, 5475
exterior and interior lights, or roof-mounted caution lights. 5476

(D) "State agency" means every organized body, office, board, 5477
authority, commission, or agency established by the laws of the 5478
state for the exercise of any governmental or quasi-governmental 5479
function of state government regardless of the funding source for 5480
that entity, other than any ~~state-supported~~ state institution of 5481

higher education, the office of the governor, lieutenant governor, 5482
auditor of state, treasurer of state, secretary of state, or 5483
attorney general, the general assembly or any legislative agency, 5484
~~or~~ the courts or any judicial agency, or any state retirement 5485
system or retirement program established by or referenced in the 5486
Revised Code. 5487

(E) "State institution of higher education" has the same 5488
meaning as in section 3345.011 of the Revised Code. 5489

Sec. 125.832. (A) The department of administrative services 5490
is granted exclusive authority over the acquisition and management 5491
of all motor vehicles used by state agencies. In carrying out this 5492
authority, the department shall do both of the following: 5493

(1) Approve the purchase or lease of each motor vehicle for 5494
use by a state agency. The department shall decide if a motor 5495
vehicle shall be leased or purchased for that use. 5496

Except as otherwise provided in division (A)(1) of this 5497
section, on and after July 1, 2005, each state agency shall 5498
acquire all passenger motor vehicles under the department's master 5499
leasing program. If the department determines that acquisition 5500
under that program is not the most economical method and if the 5501
department and the state agency acquiring the passenger motor 5502
vehicle can provide economic justification for doing so, the 5503
department may approve the purchase, rather than the lease, of a 5504
passenger motor vehicle for the acquiring state agency. 5505

(2) Direct and approve all funds that are expended for the 5506
purchase, lease, repair, maintenance, registration, insuring, and 5507
other costs related to the possession and operation of motor 5508
vehicles for the use of state agencies. 5509

(B) The director of administrative services shall establish 5510
and operate a fleet management program. The director shall operate 5511

the program for purposes including, but not limited to, 5512
cost-effective acquisition, maintenance, management, analysis, and 5513
disposal of all motor vehicles owned or leased by the state. All 5514
state agencies shall comply with statewide fleet management 5515
policies and procedures established by the director for the 5516
program, including, but not limited to, motor vehicle assignments, 5517
additions of motor vehicles to fleets or motor vehicle 5518
replacements, motor vehicle fueling, and motor vehicle repairs. 5519

(C) The director shall establish and maintain a fleet 5520
reporting system and shall require state agencies to submit to the 5521
department information relative to state motor vehicles, including 5522
motor vehicles described in division (B)(2) of section 125.831 of 5523
the Revised Code, to be used in operating the fleet management 5524
program. State agencies shall provide to the department fleet data 5525
and other information, including, but not limited to, mileage and 5526
costs. The data and other information shall be submitted in 5527
formats and in a manner determined by the department. 5528

(D) All state agency purchases or leases of motor vehicles 5529
are subject to the prior approval of the director under division 5530
(A)(1) of this section. 5531

(E) State agencies that utilize state motor vehicles or pay 5532
mileage reimbursements to employees shall provide a fleet plan to 5533
the department as directed by the department. 5534

(F)(1) The fleets of state agencies that consist of one 5535
hundred or less vehicles on July 1, 2004, shall be managed by the 5536
department's fleet management program on a time schedule 5537
determined by the department, unless the state agency has received 5538
delegated authority as described in division (G) of this section. 5539

(2) The fleets of state agencies that consist of greater than 5540
one hundred motor vehicles, but less than five hundred motor 5541
vehicles, on July 1, 2005, also shall be managed by the 5542

department's fleet management program on a time schedule 5543
determined by the department, unless the state agency has received 5544
delegated authority as described in division (G) of this section. 5545

(G)(1) The department may delegate any or all of its duties 5546
regarding fleet management to a state agency, if the state agency 5547
demonstrates to the satisfaction of the department both of the 5548
following: 5549

(a) Capabilities to institute and manage a fleet management 5550
program, including, but not limited to, the presence of a 5551
certified fleet manager; 5552

(b) Fleet management performance, as demonstrated by fleet 5553
data and other information submitted pursuant to annual reporting 5554
requirements and any other criteria the department considers 5555
necessary in evaluating the performance. 5556

(2) The department may determine that a state agency is not 5557
in compliance with this section and direct that the agency's fleet 5558
management duties be transferred to the department. 5559

(H) The proceeds derived from the disposition of any motor 5560
vehicles under this section shall be paid to whichever of the 5561
following applies: 5562

(1) The fund that originally provided moneys for the purchase 5563
or lease of the motor vehicles; 5564

(2) If the motor vehicles were originally purchased with 5565
moneys derived from the general revenue fund, the proceeds shall 5566
be deposited, in the director's discretion, into the state 5567
treasury ~~for~~ to the credit to of either the fleet management fund 5568
created by section 125.83 of the Revised Code or the investment 5569
recovery fund created by section 125.14 of the Revised Code. 5570

(I)(1) The department shall create and maintain a certified 5571
fleet manager program. 5572

(2) State agencies that have received delegated authority as 5573
described in division (G) of this section shall have a certified 5574
fleet manager. 5575

(J) The department annually shall prepare and submit a 5576
statewide fleet report to the governor, the speaker of the house 5577
of representatives, and the president of the senate. The report 5578
shall be submitted not later than the thirty-first day of January 5579
following the end of each fiscal year. It may include, but is not 5580
limited to, the numbers and types of motor vehicles, their 5581
mileage, miles per gallon, and cost per mile, mileage 5582
reimbursements, accident and insurance data, and information 5583
regarding compliance by state agencies having delegated authority 5584
under division (G) of this section with applicable fleet 5585
management requirements. 5586

(K) The director shall adopt rules for implementing the fleet 5587
management program that are consistent with recognized best 5588
practices. The program shall be supported by reasonable fee 5589
charges for the services provided. The director shall collect 5590
these fees and deposit them into the state treasury to the credit 5591
for the fleet management fund created by section 125.83 of the 5592
Revised Code. The setting and collection of fees under this 5593
division is not subject to any restriction imposed by law upon the 5594
director's or the department's authority to set or collect fees. 5595

(L) The director also shall adopt rules that prohibit, except 5596
in very limited circumstances, the exclusive assignment of 5597
state-owned, leased, or pooled motor vehicles to state employees 5598
and that prohibit the reimbursement under section 126.31 of the 5599
Revised Code of state employees who use their own motor vehicles 5600
for any mileage they incur above an amount that the department 5601
shall determine annually unless reimbursement for the excess 5602
mileage is approved by the department in accordance with standards 5603
for that approval the director shall establish in those rules. 5604

Beginning on ~~the effective date of this section~~ September 26, 5605
2003, no ~~such~~ state-owned, leased, or pooled motor vehicle shall 5606
be personally assigned as any form of compensation or benefit of 5607
state employment, and no ~~such~~ state-owned, leased, or pooled motor 5608
vehicle shall be assigned to an employee solely for commuting to 5609
and from home and work. 5610

(M) The director shall do both of the following: 5611

(1) Implement to the greatest extent possible the 5612
recommendations from the 2002 report entitled "Administrative 5613
Analysis of the Ohio Fleet Management Program" in connection with 5614
the authority granted to the department by this section; 5615

(2) Attempt to reduce the number of passenger vehicles used 5616
by state agencies during the fiscal years ending on June 30, 2004, 5617
and June 30, 2005. 5618

(N) Each state agency shall reimburse the department for all 5619
costs incurred in the assignment of motor vehicles to the state 5620
agency. 5621

(O) The director shall do all of the following in managing 5622
the fleet management program: 5623

(1) Determine how motor vehicles will be maintained, insured, 5624
operated, financed, and licensed; 5625

(2) Pursuant to the formula in division (O)(3) of this 5626
section, annually establish the minimum number of business miles 5627
per year an employee of a state agency must drive in order to 5628
qualify for approval by the department to receive a motor vehicle 5629
for business use; 5630

(3) Establish the minimum number of business miles per year 5631
at an amount that results when the annual motor vehicle cost is 5632
divided by the amount that is the reimbursement rate per mile 5633
minus the amount that is the sum of the fuel cost, the operating 5634

cost, and the insurance cost. As used in this division:	5635
(a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used.	5636 5637 5638
(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle.	5639 5640 5641
(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year.	5642 5643 5644
(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used.	5645 5646 5647 5648
(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code.	5649 5650 5651 5652
<u>(P) Each state institution of higher education shall do all of the following relating to motor vehicles that the institution acquires and manages:</u>	5653 5654 5655
<u>(1) Use the department's vehicle fleet management software system to track the motor vehicles;</u>	5656 5657
<u>(2) Use the department's fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles;</u>	5658 5659
<u>(3) Make bulk fuel purchases for the motor vehicles under the department's contract for those purchases.</u>	5660 5661
Sec. 126.25. The accounting <u>and budgeting</u> services provided by the director of budget and management shall be supported by	5662 5663

user charges. The director shall determine a rate that is 5664
sufficient to defray the expense of those services and the manner 5665
by which those charges shall be collected. All money collected 5666
from user charges shall be deposited in the state treasury to the 5667
credit of the ~~state~~ accounting and budgeting fund, which is hereby 5668
created. Rebates or revenue shares received from any state payment 5669
card program established under division (B) of section 126.21 of 5670
the Revised Code and miscellaneous payments that reimburse 5671
expenses paid from the ~~state~~ accounting and budgeting fund may be 5672
deposited into the ~~state~~ accounting and budgeting fund and used to 5673
support accounting and budgeting services. 5674

Sec. 127.16. (A) Upon the request of either a state agency or 5675
the director of budget and management and after the controlling 5676
board determines that an emergency or a sufficient economic reason 5677
exists, the controlling board may approve the making of a purchase 5678
without competitive selection as provided in division (B) of this 5679
section. 5680

(B) Except as otherwise provided in this section, no state 5681
agency, using money that has been appropriated to it directly, 5682
shall: 5683

(1) Make any purchase from a particular supplier, that would 5684
amount to fifty thousand dollars or more when combined with both 5685
the amount of all disbursements to the supplier during the fiscal 5686
year for purchases made by the agency and the amount of all 5687
outstanding encumbrances for purchases made by the agency from the 5688
supplier, unless the purchase is made by competitive selection or 5689
with the approval of the controlling board; 5690

(2) Lease real estate from a particular supplier, if the 5691
lease would amount to seventy-five thousand dollars or more when 5692
combined with both the amount of all disbursements to the supplier 5693
during the fiscal year for real estate leases made by the agency 5694

and the amount of all outstanding encumbrances for real estate 5695
leases made by the agency from the supplier, unless the lease is 5696
made by competitive selection or with the approval of the 5697
controlling board. 5698

(C) Any person who authorizes a purchase in violation of 5699
division (B) of this section shall be liable to the state for any 5700
state funds spent on the purchase, and the attorney general shall 5701
collect the amount from the person. 5702

(D) Nothing in division (B) of this section shall be 5703
construed as: 5704

(1) A limitation upon the authority of the director of 5705
transportation as granted in sections 5501.17, 5517.02, and 5706
5525.14 of the Revised Code; 5707

(2) Applying to medicaid provider agreements under Chapter 5708
5111. of the Revised Code ~~or payments or provider agreements under~~ 5709
~~the disability medical assistance program established under~~ 5710
~~Chapter 5115. of the Revised Code;~~ 5711

(3) Applying to the purchase of examinations from a sole 5712
supplier by a state licensing board under Title XLVII of the 5713
Revised Code; 5714

(4) Applying to entertainment contracts for the Ohio state 5715
fair entered into by the Ohio expositions commission, provided 5716
that the controlling board has given its approval to the 5717
commission to enter into such contracts and has approved a total 5718
budget amount for such contracts as agreed upon by commission 5719
action, and that the commission causes to be kept itemized records 5720
of the amounts of money spent under each contract and annually 5721
files those records with the clerk of the house of representatives 5722
and the clerk of the senate following the close of the fair; 5723

(5) Limiting the authority of the chief of the division of 5724

mineral resources management to contract for reclamation work with 5725
an operator mining adjacent land as provided in section 1513.27 of 5726
the Revised Code; 5727

(6) Applying to investment transactions and procedures of any 5728
state agency, except that the agency shall file with the board the 5729
name of any person with whom the agency contracts to make, broker, 5730
service, or otherwise manage its investments, as well as the 5731
commission, rate, or schedule of charges of such person with 5732
respect to any investment transactions to be undertaken on behalf 5733
of the agency. The filing shall be in a form and at such times as 5734
the board considers appropriate. 5735

(7) Applying to purchases made with money for the per cent 5736
for arts program established by section 3379.10 of the Revised 5737
Code; 5738

(8) Applying to purchases made by the rehabilitation services 5739
commission of services, or supplies, that are provided to persons 5740
with disabilities, or to purchases made by the commission in 5741
connection with the eligibility determinations it makes for 5742
applicants of programs administered by the social security 5743
administration; 5744

(9) Applying to payments by the department of job and family 5745
services under section 5111.13 of the Revised Code for group 5746
health plan premiums, deductibles, coinsurance, and other 5747
cost-sharing expenses; 5748

(10) Applying to any agency of the legislative branch of the 5749
state government; 5750

(11) Applying to agreements or contracts entered into under 5751
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 5752
Revised Code; 5753

(12) Applying to purchases of services by the adult parole 5754

authority under section 2967.14 of the Revised Code or by the	5755
department of youth services under section 5139.08 of the Revised	5756
Code;	5757
(13) Applying to dues or fees paid for membership in an	5758
organization or association;	5759
(14) Applying to purchases of utility services pursuant to	5760
section 9.30 of the Revised Code;	5761
(15) Applying to purchases made in accordance with rules	5762
adopted by the department of administrative services of motor	5763
vehicle, aviation, or watercraft fuel, or emergency repairs of	5764
such vehicles;	5765
(16) Applying to purchases of tickets for passenger air	5766
transportation;	5767
(17) Applying to purchases necessary to provide public	5768
notifications required by law or to provide notifications of job	5769
openings;	5770
(18) Applying to the judicial branch of state government;	5771
(19) Applying to purchases of liquor for resale by the	5772
division of liquor control;	5773
(20) Applying to purchases of motor courier and freight	5774
services made in accordance with department of administrative	5775
services rules;	5776
(21) Applying to purchases from the United States postal	5777
service and purchases of stamps and postal meter replenishment	5778
from vendors at rates established by the United States postal	5779
service;	5780
(22) Applying to purchases of books, periodicals, pamphlets,	5781
newspapers, maintenance subscriptions, and other published	5782
materials;	5783

(23) Applying to purchases from other state agencies,	5784
including state-assisted institutions of higher education;	5785
(24) Limiting the authority of the director of environmental	5786
protection to enter into contracts under division (D) of section	5787
3745.14 of the Revised Code to conduct compliance reviews, as	5788
defined in division (A) of that section;	5789
(25) Applying to purchases from a qualified nonprofit agency	5790
pursuant to sections 4115.31 to 4115.35 of the Revised Code;	5791
(26) Applying to payments by the department of job and family	5792
services to the United States department of health and human	5793
services for printing and mailing notices pertaining to the tax	5794
refund offset program of the internal revenue service of the	5795
United States department of the treasury;	5796
(27) Applying to contracts entered into by the department of	5797
mental retardation and developmental disabilities under sections	5798
5123.18, 5123.182, and 5123.199 of the Revised Code;	5799
(28) Applying to payments made by the department of mental	5800
health under a physician recruitment program authorized by section	5801
5119.101 of the Revised Code;	5802
(29) Applying to contracts entered into with persons by the	5803
director of commerce for unclaimed funds collection and remittance	5804
efforts as provided in division (F) of section 169.03 of the	5805
Revised Code. The director shall keep an itemized accounting of	5806
unclaimed funds collected by those persons and amounts paid to	5807
them for their services.	5808
(30) Applying to purchases made by a state institution of	5809
higher education in accordance with the terms of a contract	5810
between the vendor and an inter-university purchasing group	5811
comprised of purchasing officers of state institutions of higher	5812
education;	5813

(31) Applying to the department of job and family services'	5814
purchases of health assistance services under the children's	5815
health insurance program part I provided for under section 5101.50	5816
of the Revised Code or the children's health insurance program	5817
part II provided for under section 5101.51 of the Revised Code;	5818
(32) Applying to payments by the attorney general from the	5819
reparations fund to hospitals and other emergency medical	5820
facilities for performing medical examinations to collect physical	5821
evidence pursuant to section 2907.28 of the Revised Code;	5822
(33) Applying to contracts with a contracting authority or	5823
administrative receiver under division (C)(2)(B) of section	5824
5126.055 <u>5126.056</u> of the Revised Code;	5825
(34) Applying to reimbursements paid to the United States	5826
department of veterans affairs for pharmaceutical and patient	5827
supply purchases made on behalf of the Ohio veterans' home agency;	5828
(35) Applying to agreements the department of job and family	5829
services enters into with terminal distributors of dangerous drugs	5830
under section 5110.12 of the Revised Code.	5831
(E) Notwithstanding division (B)(1) of this section, the	5832
cumulative purchase threshold shall be seventy-five thousand	5833
dollars for the departments of mental retardation and	5834
developmental disabilities, mental health, rehabilitation and	5835
correction, and youth services.	5836
(F) When determining whether a state agency has reached the	5837
cumulative purchase thresholds established in divisions (B)(1),	5838
(B)(2), and (E) of this section, all of the following purchases by	5839
such agency shall not be considered:	5840
(1) Purchases made through competitive selection or with	5841
controlling board approval;	5842
(2) Purchases listed in division (D) of this section;	5843

(3) For the purposes of the thresholds of divisions (B)(1) 5844
and (E) of this section only, leases of real estate. 5845

(G) As used in this section, "competitive selection," 5846
"purchase," "supplies," and "services" have the same meanings as 5847
in section 125.01 of the Revised Code. 5848

Sec. 131.02. (A) Whenever any amount is payable to the state, 5849
the officer, employee, or agent responsible for administering the 5850
law under which the amount is payable shall immediately proceed to 5851
collect the amount or cause the amount to be collected and shall 5852
pay the amount into the state treasury or into the appropriate 5853
custodial fund in the manner set forth pursuant to section 113.08 5854
of the Revised Code. ~~If~~ Except as otherwise provided in this 5855
division, if the amount is not paid within forty-five days after 5856
payment is due, the officer, employee, or agent shall certify the 5857
amount due to the attorney general, in the form and manner 5858
prescribed by the attorney general, and notify the director of 5859
budget and management thereof. In the case of an amount payable by 5860
a student enrolled in a state institution of higher education, the 5861
amount shall be certified within the later of forty-five days 5862
after the amount is due or the tenth day after the beginning of 5863
the next academic semester, quarter, or other session following 5864
the session for which the payment is payable. The attorney general 5865
may assess the collection cost to the amount certified in such 5866
manner and amount as prescribed by the attorney general. 5867

For the purposes of this section, a payment is due at the 5868
time provided in divisions (A)(1) to (9) of this section. If more 5869
than one division applies to a payment, the payment is due at the 5870
earliest of the applicable times. 5871

(1) If a law, including an administrative rule, of this state 5872
prescribes the time a payment is required to be made or reported, 5873
when the payment is required by that law to be paid or reported. 5874

<u>(2) If the payment is for services rendered, when the rendering of the services is completed.</u>	5875
	5876
<u>(3) If the payment is reimbursement for a loss, when the loss is incurred.</u>	5877
	5878
<u>(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.</u>	5879
	5880
	5881
<u>(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.</u>	5882
	5883
	5884
<u>(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.</u>	5885
	5886
<u>(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.</u>	5887
	5888
	5889
<u>(8) Upon proof of claim being filed in a bankruptcy case.</u>	5890
<u>(9) Any other appropriate time determined by the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.</u>	5891
	5892
	5893
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	5895
(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.	5896
	5897
	5898
(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., or 5747. of the Revised Code, the notice also shall specify all of the following:	5899
	5900
	5901
(a) The assessment or case number;	5902
(b) The tax pursuant to which the assessment is made;	5903

(c) The reason for the liability, including, if applicable, that a penalty or interest is due;	5904 5905
(d) An explanation of how and when interest will be added to the amount assessed;	5906 5907
(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.	5908 5909 5910 5911
(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.	5912 5913
(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.	5914 5915 5916
(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:	5917 5918 5919
(1) Compromise the claim;	5920
(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.	5921 5922 5923 5924
(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.	5925 5926 5927
(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:	5928 5929 5930 5931 5932
(a) Sell, convey, or otherwise transfer the claim to one or	5933

more private entities for collection; 5934

(b) Cancel the claim or cause it to be cancelled. 5935

(2) The attorney general shall cancel or cause to be 5936
cancelled an unsatisfied claim on the date that is forty years 5937
after the date the claim is certified. 5938

Sec. 131.022. (A) As used in this section: 5939

(1) "Final overdue claim" means a claim that has been 5940
certified to the attorney general under section 131.02 of the 5941
Revised Code, that has been final for at least one year, and for 5942
which no arrangements have been made for the payment thereof or, 5943
if such arrangements have been made, the person owing the claim 5944
has failed to comply with the terms of the arrangement for more 5945
than thirty days. 5946

"Final overdue claim" includes collection costs incurred with 5947
respect to such a claim and assessed by the attorney general under 5948
division (A) of section 131.02 of the Revised Code, interest 5949
accreting to the claim under division (D) of that section, and 5950
fees added under division (E)(3) of that section. 5951

(2) "Final" means a claim has been finalized under the law 5952
providing for the imposition or determination of the amount due, 5953
and any time provided for appeal of the amount, legality, or 5954
validity of the claim has expired without an appeal having been 5955
filed in the manner provided by law. "Final" includes, but is not 5956
limited to, a final determination of the tax commissioner for 5957
which the time for appeal has expired without a notice of appeal 5958
having been filed. 5959

(B) One year after a final overdue claim is certified to the 5960
attorney general, the attorney general may sell or otherwise 5961
transfer the claim to any person. If the claim is to be sold, it 5962
may be sold by private negotiated sale or at public auction 5963

conducted by the attorney general or a designee, as is most 5964
likely, in the opinion of the attorney general, to yield the most 5965
favorable return on the sale. For the purposes of this division, a 5966
public auction includes an auction conducted electronically 5967
whereby bids are solicited and received via the internet and the 5968
solicitation is open to the public. 5969

(C) The attorney general may consolidate any number of final 5970
overdue claims for sale under this section. 5971

(D) Not less than sixty days before first offering a final 5972
overdue claim for sale, the attorney general shall provide written 5973
notice, by ordinary mail, to the person owing the claim at that 5974
person's last known mailing address. The notice shall state the 5975
following: 5976

(1) The nature and amount of the claim; 5977

(2) The manner in which the person may contact the office of 5978
the attorney general to arrange terms for payment of the claim; 5979

(3) That if the person does not contact the office of the 5980
attorney general within sixty days after the date the notice is 5981
issued and arrange terms for payment of the claim: 5982

(a) The claim will be offered for sale to a private party for 5983
collection by that party by any legal means; 5984

(b) The person is deemed to be denied any right to seek and 5985
obtain a refund of any amount from which the claim arises if the 5986
applicable law otherwise allows for such a refund; 5987

(c) The person is deemed to waive any right the person may 5988
have to confidentiality of information regarding the claim to the 5989
extent confidentiality is provided under any other section of the 5990
Revised Code. 5991

(E) Upon the sale or transfer of a final overdue claim under 5992
this section, the claim becomes the property of the purchaser or 5993

transferee, and may be sold or otherwise transferred by that 5994
person to any other person or otherwise disposed of. The owner of 5995
the claim is entitled to all proceeds from the collection of the 5996
claim. Purchasers or transferees of a final overdue claim are 5997
subject to any applicable laws governing collection of debts of 5998
the kind represented by the claim. 5999

(F) Upon the sale or transfer of a final overdue claim under 6000
this section, no refund shall be issued or paid to the person 6001
owing the claim for any part of the amount from which the claim 6002
arises. 6003

(G) Notwithstanding any other section of the Revised Code, 6004
the attorney general, solely for the purpose of effecting the sale 6005
or transfer of a final overdue claim under this section, may 6006
disclose information about the person owing the claim that 6007
otherwise would be confidential under a section of the Revised 6008
Code, and the person shall have no right of action against such 6009
disclosure to the extent such a right is available under that 6010
section. 6011

(H) The authority granted under this section is supplemental 6012
to the authority granted under section 131.02 of the Revised Code. 6013

Sec. 131.23. The various political subdivisions of this state 6014
may issue bonds, and any indebtedness created by such issuance 6015
shall not be subject to the limitations or included in the 6016
calculation of indebtedness prescribed by sections 133.05, 133.06, 6017
133.07, and 133.09 of the Revised Code, but such bonds may be 6018
issued only under the following conditions: 6019

(A) The subdivision desiring to issue such bonds shall obtain 6020
from the county auditor a certificate showing the total amount of 6021
delinquent taxes due and unpayable to such subdivision at the last 6022
semiannual tax settlement. 6023

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

(1) The total bonded indebtedness;

(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;

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

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

(5) The total of any other indebtedness;

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

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

(8) The estimated revenue for the fiscal year.

(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of such subdivision in an amount not to exceed seventy per cent of

the net unobligated delinquent taxes and assessments due and owing 6054
to such subdivision, as set forth in division (B)(6) of this 6055
section. 6056

(D) No subdivision may issue bonds under this section in 6057
excess of a sufficient amount to pay the indebtedness of the 6058
subdivision as shown by division (B)(2) of this section and, 6059
except in the case of school districts, to provide funds for 6060
disability financial assistance ~~and disability medical assistance~~, 6061
as shown by division (B)(3) of this section. 6062

(E) The tax commissioner shall grant to such subdivision 6063
authority requested by such subdivision as restricted by divisions 6064
(C) and (D) of this section and shall make a record of the 6065
certificate, statement, and grant in a record book devoted solely 6066
to such recording and which shall be open to inspection by the 6067
public. 6068

(F) The commissioner shall immediately upon issuing the 6069
authority provided in division (E) of this section notify the 6070
proper authority having charge of the retirement of bonds of such 6071
subdivision by forwarding a copy of such grant of authority and of 6072
the statement provided for in division (B) of this section. 6073

(G) Upon receipt of authority, the subdivision shall proceed 6074
according to law to issue the amount of bonds authorized by the 6075
commissioner, and authorized by the taxing authority, provided the 6076
taxing authority of that subdivision may by resolution submit to 6077
the electors of that subdivision the question of issuing such 6078
bonds. Such resolution shall make the declarations and statements 6079
required by section 133.18 of the Revised Code. The county auditor 6080
and taxing authority shall thereupon proceed as set forth in 6081
divisions (C) and (D) of such section. The election on the 6082
question of issuing such bonds shall be held under divisions (E), 6083
(F), and (G) of such section, except that publication of the 6084

notice of such election shall be made on four separate days prior 6085
to such election in one or more newspapers of general circulation 6086
in the subdivisions. Such bonds may be exchanged at their face 6087
value with creditors of the subdivision in liquidating the 6088
indebtedness described and enumerated in division (B)(2) of this 6089
section or may be sold as provided in Chapter 133. of the Revised 6090
Code, and in either event shall be uncontestable. 6091

(H) The per cent of delinquent taxes and assessments 6092
collected for and to the credit of the subdivision after the 6093
exchange or sale of bonds as certified by the commissioner shall 6094
be paid to the authority having charge of the sinking fund of the 6095
subdivision, which money shall be placed in a separate fund for 6096
the purpose of retiring the bonds so issued. The proper authority 6097
of the subdivisions shall provide for the levying of a tax 6098
sufficient in amount to pay the debt charges on all such bonds 6099
issued under this section. 6100

(I) This section is for the sole purpose of assisting the 6101
various subdivisions in paying their unsecured indebtedness, and 6102
providing funds for disability financial assistance ~~and disability~~ 6103
~~medical assistance~~. The bonds issued under authority of this 6104
section shall not be used for any other purpose and any exchange 6105
for other purposes, or the use of the money derived from the sale 6106
of such bonds by the subdivision for any other purpose, is 6107
misapplication of funds. 6108

(J) The bonds authorized by this section shall be redeemable 6109
or payable in not to exceed ten years from date of issue and shall 6110
not be subject to or considered in calculating the net 6111
indebtedness of the subdivision. The budget commission of the 6112
county in which the subdivision is located shall annually allocate 6113
such portion of the then delinquent levy due such subdivision 6114
which is unpledged for other purposes to the payment of debt 6115
charges on the bonds issued under authority of this section. 6116

(K) The issue of bonds under this section shall be governed 6117
by Chapter 133. of the Revised Code, respecting the terms used, 6118
forms, manner of sale, and redemption except as otherwise provided 6119
in this section. 6120

The board of county commissioners of any county may issue 6121
bonds authorized by this section and distribute the proceeds of 6122
such bond issues to any or all of the cities and townships of such 6123
counties, according to their relative needs for disability 6124
financial assistance ~~and disability medical assistance~~ as 6125
determined by such county. 6126

All sections of the Revised Code inconsistent with or 6127
prohibiting the exercise of the authority conferred by this 6128
section are inoperative respecting bonds issued under this 6129
section. 6130

Sec. 131.46. There is hereby created in the state treasury 6131
the tax rate stabilization fund. The tax rate stabilization fund 6132
shall receive transfers of funds pursuant to sections 5751.033 and 6133
5751.034 of the Revised Code. It is the intent of the general 6134
assembly that the funds received into the tax rate stabilization 6135
fund be used for purposes of permanently reducing the rates of tax 6136
that apply to individuals with respect to the tax levied under 6137
section 5747.02 of the Revised Code. 6138

Sec. 133.09. (A) Unless it is a township that has adopted a 6139
limited home rule government under Chapter 504. of the Revised 6140
Code, a township shall not incur net indebtedness that exceeds an 6141
amount equal to five per cent of its tax valuation and, except as 6142
specifically authorized by section 505.262 of the Revised Code or 6143
other laws, shall not incur any net indebtedness unless authorized 6144
by vote of the electors. 6145

(B) A township that has adopted a limited home rule 6146

government under Chapter 504. of the Revised Code shall not incur 6147
net indebtedness that exceeds an amount equal to ten and one-half 6148
per cent of its tax valuation, or incur without a vote of the 6149
electors net indebtedness that exceeds an amount equal to five and 6150
one-half per cent of that tax valuation. In calculating the net 6151
indebtedness of a township that has adopted a limited home rule 6152
government, none of the following securities shall be considered: 6153

(1) Self-supporting securities issued for any purpose; 6154

(2) Securities issued for the purpose of purchasing, 6155
constructing, improving, or extending water or sanitary or surface 6156
and storm water sewerage systems or facilities, or a combination 6157
of those systems or facilities, to the extent that an agreement 6158
entered into with another subdivision requires the other 6159
subdivision to pay to the township amounts equivalent to debt 6160
charges on the securities; 6161

(3) Securities that are not general obligations of the 6162
township; 6163

(4) Voted securities issued for the purposes of redevelopment 6164
to the extent that their principal amount does not exceed an 6165
amount equal to two per cent of the tax valuation of the township; 6166

(5) Securities issued for the purpose of acquiring or 6167
constructing roads, highways, bridges, or viaducts, or for the 6168
purpose of acquiring or making other highway permanent 6169
improvements, to the extent that the resolution of the board of 6170
township trustees authorizing the issuance of the securities 6171
includes a covenant to appropriate from money distributed to the 6172
township under Chapter 4501., 4503., 4504., or 5735. of the 6173
Revised Code a sufficient amount to cover debt charges on and 6174
financing costs relating to the securities as they become due; 6175

(6) Securities issued for energy conservation measures under 6176
section 505.264 of the Revised Code. 6177

(C) In calculating the net indebtedness of any township, no obligation incurred under division (B) of section 513.17 or under section 505.261, 505.264, 505.265, 505.267, or 505.37 of the Revised Code, or in connection with a project undertaken pursuant to section 5540.032 of the Revised Code, shall be considered.

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or

municipal university or college, its board of trustees or board of 6208
directors; in the case of a nonprofit hospital agency, the board 6209
of trustees or other body having general management of the agency; 6210
and, in the case of the state, the director of development or the 6211
Ohio higher educational facility commission. 6212

(E) "Hospital facilities" means buildings, structures and 6213
other improvements, additions thereto and extensions thereof, 6214
furnishings, equipment, and real estate and interests in real 6215
estate, used or to be used for or in connection with one or more 6216
hospitals, emergency, intensive, intermediate, extended, 6217
long-term, or self-care facilities, diagnostic and treatment and 6218
out-patient facilities, facilities related to programs for home 6219
health services, clinics, laboratories, public health centers, 6220
research facilities, and rehabilitation facilities, for or 6221
pertaining to diagnosis, treatment, care, or rehabilitation of 6222
sick, ill, injured, infirm, impaired, disabled, or handicapped 6223
persons, or the prevention, detection, and control of disease, and 6224
also includes education, training, and food service facilities for 6225
health professions personnel, housing facilities for such 6226
personnel and their families, and parking and service facilities 6227
in connection with any of the foregoing; and includes any one, 6228
part of, or any combination of the foregoing; and further includes 6229
site improvements, utilities, machinery, facilities, furnishings, 6230
and any separate or connected buildings, structures, improvements, 6231
sites, utilities, facilities, or equipment to be used in, or in 6232
connection with the operation or maintenance of, or supplementing 6233
or otherwise related to the services or facilities to be provided 6234
by, any one or more of such hospital facilities. 6235

(F) "Costs of hospital facilities" means the costs of 6236
acquiring hospital facilities or interests in hospital facilities, 6237
including membership interests in nonprofit hospital agencies, 6238
costs of constructing hospital facilities, costs of improving one 6239

or more hospital facilities, including reconstructing, 6240
rehabilitating, remodeling, renovating, and enlarging, costs of 6241
equipping and furnishing such facilities, and all financing costs 6242
pertaining thereto, including, without limitation thereto, costs 6243
of engineering, architectural, and other professional services, 6244
designs, plans, specifications and surveys, and estimates of cost, 6245
costs of tests and inspections, the costs of any indemnity or 6246
surety bonds and premiums on insurance, all related direct or 6247
allocable administrative expenses pertaining thereto, fees and 6248
expenses of trustees, depositories, and paying agents for the 6249
obligations, cost of issuance of the obligations and financing 6250
charges and fees and expenses of financial advisors, attorneys, 6251
accountants, consultants and rating services in connection 6252
therewith, capitalized interest on the obligations, amounts 6253
necessary to establish reserves as required by the bond 6254
proceedings, the reimbursement of all moneys advanced or applied 6255
by the hospital agency or others or borrowed from others for the 6256
payment of any item or items of costs of such facilities, and all 6257
other expenses necessary or incident to planning or determining 6258
feasibility or practicability with respect to such facilities, and 6259
such other expenses as may be necessary or incident to the 6260
acquisition, construction, reconstruction, rehabilitation, 6261
remodeling, renovation, enlargement, improvement, equipment, and 6262
furnishing of such facilities, the financing thereof, and the 6263
placing of the same in use and operation, including any one, part 6264
of, or combination of such classes of costs and expenses, and 6265
means the costs of refinancing obligations issued by, or 6266
reimbursement of money advanced by, nonprofit hospital agencies or 6267
others the proceeds of which were used for the payment of costs of 6268
hospital facilities, if the governing body of the public hospital 6269
agency determines that the refinancing or reimbursement advances 6270
the purposes of this chapter, whether or not the refinancing or 6271
reimbursement is in conjunction with the acquisition or 6272

construction of additional hospital facilities. 6273

(G) "Hospital receipts" means all moneys received by or on 6274
behalf of a hospital agency from or in connection with the 6275
ownership, operation, acquisition, construction, improvement, 6276
equipping, or financing of any hospital facilities, including, 6277
without limitation thereto, any rentals and other moneys received 6278
from the lease, sale, or other disposition of hospital facilities, 6279
and any gifts, grants, interest subsidies, or other moneys 6280
received under any federal program for assistance in financing the 6281
costs of hospital facilities, and any other gifts, grants, and 6282
donations, and receipts therefrom, available for financing the 6283
costs of hospital facilities. 6284

(H) "Obligations" means bonds, notes, or other evidences of 6285
indebtedness or obligation, including interest coupons pertaining 6286
thereto, issued or issuable by a public hospital agency to pay 6287
costs of hospital facilities. 6288

(I) "Bond service charges" means principal, interest, and 6289
call premium, if any, required to be paid on obligations. 6290

(J) "Bond proceedings" means one or more ordinances, 6291
resolutions, trust agreements, indentures, and other agreements or 6292
documents, and amendments and supplements to the foregoing, or any 6293
combination thereof, authorizing or providing for the terms, 6294
including any variable interest rates, and conditions applicable 6295
to, or providing for the security of, obligations and the 6296
provisions contained in such obligations. 6297

(K) "Nursing home" has the same meaning as in division (A)(1) 6298
of section 5701.13 of the Revised Code. 6299

(L) "Residential care facility" has the same meaning as in 6300
division (A)(2) of section 5701.13 of the Revised Code. 6301

(M) "Adult care facility" has the same meaning as in division 6302

(A)(3) of section 5701.13 of the Revised Code.	6303
(N) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:	6304 6305 6306 6307 6308
(1) A hospital required to be certified by section 3727.02 of the Revised Code;	6309 6310
(2) A nursing home or residential care facility;	6311
(3) An adult care facility;	6312
(4) A hospice licensed under section 3712.04 of the Revised Code;	6313 6314
(5) A habilitation center as defined in section 5123.041 of the Revised Code;	6315 6316
(6) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	6317 6318 6319
(7) <u>(6)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	6320 6321
(8) <u>(7)</u> A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code;	6322 6323
(9) <u>(8)</u> A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;	6324 6325 6326 6327 6328
(10) <u>(9)</u> A residential facility used as part of a hospital to provide housing for staff of the hospital or students pursuing a course of study at the hospital.	6329 6330 6331

Sec. 140.08. (A) Except as otherwise provided in ~~divisions~~ 6332
division (B)(1) ~~and~~ (2) of this section, all hospital facilities 6333
purchased, acquired, constructed, or owned by a public hospital 6334
agency, or financed in whole or in part by obligations issued by a 6335
public hospital agency, and used, or to be used when completed, as 6336
hospital facilities, and the income therefrom, are exempt from all 6337
taxation within this state, including ad valorem and excise taxes, 6338
notwithstanding any other provisions of law, and hospital agencies 6339
are exempt from taxes levied under Chapters 5739. and 5741. of the 6340
Revised Code. The obligations issued hereafter under section 6341
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 6342
Article XVIII, Ohio Constitution, to pay costs of hospital 6343
facilities or to refund such obligations, and the transfer 6344
thereof, and the interest and other income from such obligations, 6345
including any profit made on the sale thereof, is free from 6346
taxation within the state. 6347

(B)(1) Division (A) of this section does not exempt 6348
independent living facilities from taxes levied on property or 6349
taxes levied under Chapters 5739. and 5741. of the Revised Code. 6350
If an independent living facility or part of such facility becomes 6351
an adult care facility, nursing home, or residential care facility 6352
on or after January 10, 1991, that part of the independent living 6353
facility that is an adult care facility, nursing home, or 6354
residential care facility is exempt from taxation subject to 6355
division (B)(2) of this section on and after the date it becomes 6356
an adult care facility, nursing home, or residential care 6357
facility. 6358

(2) Division (A) of this section exempts nursing homes, 6359
residential care facilities, and adult care facilities from taxes 6360
levied on property and taxes levied under Chapters 5739. and 5741. 6361
of the Revised Code only until all obligations issued to finance 6362

such homes or facilities, or all refunding or series of refundings
of those obligations, are redeemed or otherwise retired.

(3) Nothing in division (A) of this section exempts any
person subject to this section from the tax levied by Chapter
5751. of the Revised Code, but the tax shall be based solely on
those gross receipts that contribute to such person's unrelated
business income under the Internal Revenue Code of 1986, 100 Stat.
2085, 26 U.S.C. 1, as amended.

Sec. 141.011. Beginning in calendar year 2001, the annual
salaries of the elective officers of the state shall be as follows
rather than as prescribed by divisions (A) to (F) of section
141.01 of the Revised Code:

(A)(1) In calendar year 2001 the annual salary of the
governor shall be one hundred twenty-six thousand four hundred
ninety-seven dollars.

(2) In calendar years 2002 through 2006 the annual salary of
the governor shall be one hundred thirty thousand two hundred
ninety-two dollars.

(3) In calendar year 2007 the annual salary of the governor
shall be the annual salary in 2006 increased by each of the
following percentages in succession:

(a) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2001, to
September 30, 2002, rounded to the nearest one-tenth of one per
cent;

(b) The lesser of three per cent or the percentage increase,
if any, in the consumer price index from October 1, 2002, to
September 30, 2003, rounded to the nearest one-tenth of one per
cent;

(c) The lesser of three per cent or the percentage increase,

if any, in the consumer price index from October 1, 2003, to 6393
September 30, 2004, rounded to the nearest one-tenth of one per 6394
cent; 6395

(d) The lesser of three per cent or the percentage increase, 6396
if any, in the consumer price index from October 1, 2004, to 6397
September 30, 2005, rounded to the nearest one-tenth of one per 6398
cent; 6399

(e) The lesser of three per cent or the percentage increase, 6400
if any, in the consumer price index from October 1, 2005, to 6401
September 30, 2006, rounded to the nearest one-tenth of one per 6402
cent. 6403

(4) In calendar year 2008 and thereafter, the annual salary 6404
of the governor shall be the annual salary in 2007 increased by 6405
the lesser of the following: 6406

(a) Three per cent; 6407

(b) The percentage increase, if any, in the consumer price 6408
index from October 1, 2006, to September 30, 2007, rounded to the 6409
nearest one-tenth of one per cent. 6410

(B)(1) In calendar year 2001 the annual salary of the 6411
lieutenant governor shall be sixty-six thousand three hundred six 6412
dollars. 6413

(2) In calendar years 2002 through 2006 the annual salary of 6414
the lieutenant governor shall be sixty-eight thousand two hundred 6415
ninety-five dollars. 6416

(3) In calendar year 2007 the annual salary of the lieutenant 6417
governor shall be the annual salary in 2006 increased by each of 6418
the following percentages in succession: 6419

(a) The lesser of three per cent or the percentage increase, 6420
if any, in the consumer price index from October 1, 2001, to 6421
September 30, 2002, rounded to the nearest one-tenth of one per 6422

cent;	6423
(b) The lesser of three per cent or the percentage increase,	6424
if any, in the consumer price index from October 1, 2002, to	6425
September 30, 2003, rounded to the nearest one-tenth of one per	6426
cent;	6427
(c) The lesser of three per cent or the percentage increase,	6428
if any, in the consumer price index from October 1, 2003, to	6429
September 30, 2004, rounded to the nearest one-tenth of one per	6430
cent;	6431
(d) The lesser of three per cent or the percentage increase,	6432
if any, in the consumer price index from October 1, 2004, to	6433
September 30, 2005, rounded to the nearest one-tenth of one per	6434
cent;	6435
(e) The lesser of three per cent or the percentage increase,	6436
if any, in the consumer price index from October 1, 2005, to	6437
September 30, 2006, rounded to the nearest one-tenth of one per	6438
cent.	6439
(4) In calendar year 2008 and thereafter, the annual salary	6440
of the lieutenant governor shall be the annual salary in 2007	6441
increased by the lesser of the following:	6442
(a) Three per cent;	6443
(b) The percentage increase, if any, in the consumer price	6444
index from October 1, 2006 to September 30, 2007, rounded to the	6445
nearest one-tenth of one per cent.	6446
If the governor appoints the lieutenant governor as an	6447
administrative department head or as the director of the office of	6448
criminal justice services under section 108.05 of the Revised	6449
Code , the lieutenant governor may accept the salary for that	6450
office while serving as its head in lieu of the salary for the	6451
office of lieutenant governor.	6452

(C)(1) In calendar year 2001 the annual salary of the 6453
secretary of state, auditor of state, treasurer of state, and 6454
attorney general shall be ninety-three thousand four hundred 6455
forty-seven dollars. 6456

(2) In calendar year 2002 the annual salary of the secretary 6457
of state, auditor of state, treasurer of state, and attorney 6458
general shall be ninety-six thousand two hundred fifty dollars. 6459

(3) In each calendar year from 2003 through 2008, the annual 6460
salary of the secretary of state, auditor of state, treasurer of 6461
state, and attorney general shall be increased by the lesser of 6462
the following: 6463

(a) Three per cent; 6464

(b) The percentage increase, if any, in the consumer price 6465
index over the twelve-month period that ends on the thirtieth day 6466
of September of the immediately preceding year, rounded to the 6467
nearest one-tenth of one per cent. 6468

(D) Upon the death of an elected executive officer of the 6469
state listed in divisions (A) to (F) of section 141.01 of the 6470
Revised Code during that person's term of office, an amount shall 6471
be paid in accordance with section 2113.04 of the Revised Code, or 6472
to that person's estate. The amount shall equal the amount of the 6473
salary that the officer would have received during the remainder 6474
of the officer's unexpired term or an amount equal to the salary 6475
of that person's office for two years, whichever is less. 6476

(E) As used in this section, "consumer price index" has the 6477
same meaning as in section 101.27 of the Revised Code. 6478

Sec. 141.04. (A) The annual salaries of the chief justice of 6479
the supreme court and of the justices and judges named in this 6480
section payable from the state treasury are as follows, rounded to 6481
the nearest fifty dollars: 6482

(1) For the chief justice of the supreme court, the following amounts effective in the following years:	6483 6484
(a) Beginning January 1, 2000, one hundred twenty-four thousand nine hundred dollars;	6485 6486
(b) Beginning January 1, 2001, one hundred twenty-eight thousand six hundred fifty dollars;	6487 6488
(c) After 2001, the amount determined under division (E)(1) of this section.	6489 6490
(2) For the justices of the supreme court, the following amounts effective in the following years:	6491 6492
(a) Beginning January 1, 2000, one hundred seventeen thousand two hundred fifty dollars;	6493 6494
(b) Beginning January 1, 2001, one hundred twenty thousand seven hundred fifty dollars;	6495 6496
(c) After 2001, the amount determined under division (E)(1) of this section.	6497 6498
(3) For the judges of the courts of appeals, the following amounts effective in the following years:	6499 6500
(a) Beginning January 1, 2000, one hundred nine thousand two hundred fifty dollars;	6501 6502
(b) Beginning January 1, 2001, one hundred twelve thousand five hundred fifty dollars;	6503 6504
(c) After 2001, the amount determined under division (E)(1) of this section.	6505 6506
(4) For the judges of the courts of common pleas, the following amounts effective in the following years:	6507 6508
(a) Beginning January 1, 2000, one hundred thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant	6509 6510 6511

to section 141.05 of the Revised Code; 6512

(b) Beginning January 1, 2001, one hundred three thousand 6513
five hundred dollars, reduced by an amount equal to the annual 6514
compensation paid to that judge from the county treasury pursuant 6515
to section 141.05 of the Revised Code; 6516

(c) After 2001, the aggregate annual salary amount determined 6517
under division (E)(2) of this section reduced by an amount equal 6518
to the annual compensation paid to that judge from the county 6519
treasury pursuant to section 141.05 of the Revised Code. 6520

(5) For the full-time judges of a municipal court or the 6521
part-time judges of a municipal court of a territory having a 6522
population of more than fifty thousand, the following amounts 6523
effective in the following years, which amounts shall be in 6524
addition to all amounts received pursuant to divisions (B)(1)(a) 6525
and (2) of section 1901.11 of the Revised Code from municipal 6526
corporations and counties: 6527

(a) Beginning January 1, 2000, thirty-two thousand six 6528
hundred fifty dollars; 6529

(b) Beginning January 1, 2001, thirty-five thousand five 6530
hundred dollars; 6531

(c) After 2001, the amount determined under division (E)(3) 6532
of this section. 6533

(6) For judges of a municipal court designated as part-time 6534
judges by section 1901.08 of the Revised Code, other than 6535
part-time judges to whom division (A)(5) of this section applies, 6536
and for judges of a county court, the following amounts effective 6537
in the following years, which amounts shall be in addition to any 6538
amounts received pursuant to division (A) of section 1901.11 of 6539
the Revised Code from municipal corporations and counties or 6540
pursuant to division (A) of section 1907.16 of the Revised Code 6541

from counties: 6542

(a) Beginning January 1, 2000, eighteen thousand eight 6543
hundred dollars; 6544

(b) Beginning January 1, 2001, twenty thousand four hundred 6545
fifty dollars; 6546

(c) After 2001, the amount determined under division (E)(4) 6547
of this section. 6548

(B) Except as provided in section 1901.121 of the Revised 6549
Code, except as otherwise provided in this division, and except 6550
for the compensation to which the judges described in division 6551
(A)(5) of this section are entitled pursuant to divisions 6552
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 6553
annual salary of the chief justice of the supreme court and of 6554
each justice or judge listed in division (A) of this section shall 6555
be paid in equal monthly installments from the state treasury. If 6556
the chief justice of the supreme court or any justice or judge 6557
listed in division (A)(2), (3), or (4) of this section delivers a 6558
written request to be paid biweekly to the administrative director 6559
of the supreme court prior to the first day of January of any 6560
year, the annual salary of the chief justice or the justice or 6561
judge that is listed in division (A)(2), (3), or (4) of this 6562
section shall be paid, during the year immediately following the 6563
year in which the request is delivered to the administrative 6564
director of the supreme court, biweekly from the state treasury. 6565

(C) Upon the death of the chief justice or a justice of the 6566
supreme court during that person's term of office, an amount shall 6567
be paid in accordance with section 2113.04 of the Revised Code, or 6568
to that person's estate. The amount shall equal the amount of the 6569
salary that the chief justice or justice would have received 6570
during the remainder of the unexpired term or an amount equal to 6571
the salary of office for two years, whichever is less. 6572

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E)(1) Each calendar year from 2002 through 2008, the annual salaries of the chief justice of the supreme court and of the justices and judges named in divisions (A)(2) and (3) of this section shall be increased by an amount equal to the adjustment percentage for that year multiplied by the compensation paid the preceding year pursuant to division (A)(1), (2), or (3) of this section.

(2) Each calendar year from 2002 through 2008, the aggregate annual salary payable under division (A)(4) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(4) of this section and section 141.05 of the Revised Code.

(3) Each calendar year from 2002 through 2008, the salary payable from the state treasury under division (A)(5) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(5) of this section and division (B)(1)(a) of section 1901.11 of the Revised Code.

(4) Each calendar year from 2002 through 2008, the salary payable from the state treasury under division (A)(6) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year

pursuant to division (A)(6) of this section and division (A) of 6604
section 1901.11 of the Revised Code from municipal corporations 6605
and counties or division (A) of section 1907.16 of the Revised 6606
Code from counties. 6607

(F) In addition to the salaries payable pursuant to this 6608
section, the chief justice of the supreme court and the justices 6609
of the supreme court shall be entitled to a vehicle allowance of 6610
five hundred dollars per month, payable from the state treasury. 6611
The allowance shall be increased on the first day of January of 6612
each odd numbered year by an amount equal to the percentage 6613
increase, if any, in the consumer price index for the immediately 6614
preceding twenty-four month period for which information is 6615
available. 6616

(G) As used in this section: 6617

(1) The "adjustment percentage" for a year is the lesser of 6618
the following: 6619

(a) Three per cent; 6620

(b) The percentage increase, if any, in the consumer price 6621
index over the twelve-month period that ends on the thirtieth day 6622
of September of the immediately preceding year, rounded to the 6623
nearest one-tenth of one per cent. 6624

(2) "Consumer price index" has the same meaning as in section 6625
101.27 of the Revised Code. 6626

(3) "Salary" does not include any portion of the cost, 6627
premium, or charge for health, medical, hospital, dental, or 6628
surgical benefits, or any combination of those benefits, covering 6629
the chief justice of the supreme court or a justice or judge named 6630
in this section and paid on the chief justice's or the justice's 6631
or judge's behalf by a governmental entity. 6632

Sec. 145.01. As used in this chapter: 6633

(A) "Public employee" means: 6634

(1) Any person holding an office, not elective, under the 6635
state or any county, township, municipal corporation, park 6636
district, conservancy district, sanitary district, health 6637
district, metropolitan housing authority, state retirement board, 6638
Ohio historical society, public library, county law library, union 6639
cemetery, joint hospital, institutional commissary, state 6640
university, or board, bureau, commission, council, committee, 6641
authority, or administrative body as the same are, or have been, 6642
created by action of the general assembly or by the legislative 6643
authority of any of the units of local government named in 6644
division (A)(1) of this section, or employed and paid in whole or 6645
in part by the state or any of the authorities named in division 6646
(A)(1) of this section in any capacity not covered by section 6647
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 6648

(2) A person who is a member of the public employees 6649
retirement system and who continues to perform the same or similar 6650
duties under the direction of a contractor who has contracted to 6651
take over what before the date of the contract was a publicly 6652
operated function. The governmental unit with which the contract 6653
has been made shall be deemed the employer for the purposes of 6654
administering this chapter. 6655

(3) Any person who is an employee of a public employer, 6656
notwithstanding that the person's compensation for that employment 6657
is derived from funds of a person or entity other than the 6658
employer. Credit for such service shall be included as total 6659
service credit, provided that the employee makes the payments 6660
required by this chapter, and the employer makes the payments 6661
required by sections 145.48 and 145.51 of the Revised Code. 6662

(4) A person who elects in accordance with section 145.015 of 6663
the Revised Code to remain a contributing member of the public 6664

employees retirement system. 6665

In all cases of doubt, the public employees retirement board 6666
shall determine whether any person is a public employee, and its 6667
decision is final. 6668

(B) "Member" means any public employee, other than a public 6669
employee excluded or exempted from membership in the retirement 6670
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 6671
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 6672
retirant who becomes a member under division (C) of section 145.38 6673
of the Revised Code. "Member" also includes a disability benefit 6674
recipient. 6675

(C) "Head of the department" means the elective or appointive 6676
head of the several executive, judicial, and administrative 6677
departments, institutions, boards, and commissions of the state 6678
and local government as the same are created and defined by the 6679
laws of this state or, in case of a charter government, by that 6680
charter. 6681

(D) "Employer" or "public employer" means the state or any 6682
county, township, municipal corporation, park district, 6683
conservancy district, sanitary district, health district, 6684
metropolitan housing authority, state retirement board, Ohio 6685
historical society, public library, county law library, union 6686
cemetery, joint hospital, institutional commissary, state medical 6687
college, state university, or board, bureau, commission, council, 6688
committee, authority, or administrative body as the same are, or 6689
have been, created by action of the general assembly or by the 6690
legislative authority of any of the units of local government 6691
named in this division not covered by section 742.01, 3307.01, 6692
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 6693
means the employer of any public employee. 6694

(E) "Prior service" means all service as a public employee 6695

rendered before January 1, 1935, and all service as an employee of
any employer who comes within the state teachers retirement system
or of the school employees retirement system or of any other
retirement system established under the laws of this state
rendered prior to January 1, 1935, provided that if the employee
claiming the service was employed in any capacity covered by that
other system after that other system was established, credit for
the service may be allowed by the public employees retirement
system only when the employee has made payment, to be computed on
the salary earned from the date of appointment to the date
membership was established in the public employees retirement
system, at the rate in effect at the time of payment, and the
employer has made payment of the corresponding full liability as
provided by section 145.44 of the Revised Code. "Prior service"
also means all service credited for active duty with the armed
forces of the United States as provided in section 145.30 of the
Revised Code.

If an employee who has been granted prior service credit by
the public employees retirement system for service rendered prior
to January 1, 1935, as an employee of a board of education
establishes, before retirement, one year or more of contributing
service in the state teachers retirement system or school
employees retirement system, then the prior service ceases to be
the liability of this system.

If the board determines that a position of any member in any
calendar year prior to January 1, 1935, was a part-time position,
the board shall determine what fractional part of a year's credit
shall be allowed by the following formula:

(1) When the member has been either elected or appointed to
an office the term of which was two or more years and for which an
annual salary is established, the fractional part of the year's
credit shall be computed as follows:

First, when the member's annual salary is one thousand 6728
dollars or less, the service credit for each such calendar year 6729
shall be forty per cent of a year. 6730

Second, for each full one hundred dollars of annual salary 6731
above one thousand dollars, the member's service credit for each 6732
such calendar year shall be increased by two and one-half per 6733
cent. 6734

(2) When the member is paid on a per diem basis, the service 6735
credit for any single year of the service shall be determined by 6736
using the number of days of service for which the compensation was 6737
received in any such year as a numerator and using two hundred 6738
fifty days as a denominator. 6739

(3) When the member is paid on an hourly basis, the service 6740
credit for any single year of the service shall be determined by 6741
using the number of hours of service for which the compensation 6742
was received in any such year as a numerator and using two 6743
thousand hours as a denominator. 6744

(F) "Contributor" means any person who has an account in the 6745
employees' savings fund created by section 145.23 of the Revised 6746
Code. When used in the sections listed in division (B) of section 6747
145.82 of the Revised Code, "contributor" includes any person 6748
participating in a PERS defined contribution plan. 6749

(G) "Beneficiary" or "beneficiaries" means the estate or a 6750
person or persons who, as the result of the death of a member, 6751
contributor, or retirant, qualify for or are receiving some right 6752
or benefit under this chapter. 6753

(H)(1) "Total service credit," except as provided in section 6754
145.37 of the Revised Code, means all service credited to a member 6755
of the retirement system since last becoming a member, including 6756
restored service credit as provided by section 145.31 of the 6757
Revised Code; credit purchased under sections 145.293 and 145.299 6758

of the Revised Code; all the member's prior service credit; all
the member's military service credit computed as provided in this
chapter; all service credit established pursuant to section
145.297 of the Revised Code; and any other service credited under
this chapter. In addition, "total service credit" includes any
period, not in excess of three years, during which a member was
out of service and receiving benefits under Chapters 4121. and
4123. of the Revised Code. For the exclusive purpose of satisfying
the service credit requirement and of determining eligibility for
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36,
and 145.361 of the Revised Code, "five or more years of total
service credit" means sixty or more calendar months of
contributing service in this system.

(2) "One and one-half years of contributing service credit,"
as used in division (B) of section 145.45 of the Revised Code,
also means eighteen or more calendar months of employment by a
municipal corporation that formerly operated its own retirement
plan for its employees or a part of its employees, provided that
all employees of that municipal retirement plan who have eighteen
or more months of such employment, upon establishing membership in
the public employees retirement system, shall make a payment of
the contributions they would have paid had they been members of
this system for the eighteen months of employment preceding the
date membership was established. When that payment has been made
by all such employee members, a corresponding payment shall be
paid into the employers' accumulation fund by that municipal
corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers
retirement system or the school employees retirement system, or
both, except in cases of retirement on a combined basis pursuant
to section 145.37 of the Revised Code or as provided in section
145.383 of the Revised Code, service credit for any period shall

be credited on the basis of the ratio that contributions to the
public employees retirement system bear to total contributions in
all state retirement systems.

(4) Not more than one year of credit may be given for any
period of twelve months.

(5) "Ohio service credit" means credit for service that was
rendered to the state or any of its political subdivisions or any
employer.

(I) "Regular interest" means interest at any rates for the
respective funds and accounts as the public employees retirement
board may determine from time to time.

(J) "Accumulated contributions" means the sum of all amounts
credited to a contributor's individual account in the employees'
savings fund together with any interest credited to the
contributor's account under section 145.471 or 145.472 of the
Revised Code.

(K)(1) "Final average salary" means the quotient obtained by
dividing by three the sum of the three full calendar years of
contributing service in which the member's earnable salary was
highest, except that if the member has a partial year of
contributing service in the year the member's employment
terminates and the member's earnable salary for the partial year
is higher than for any comparable period in the three years, the
member's earnable salary for the partial year shall be substituted
for the member's earnable salary for the comparable period during
the three years in which the member's earnable salary was lowest.

(2) If a member has less than three years of contributing
service, the member's final average salary shall be the member's
total earnable salary divided by the total number of years,
including any fraction of a year, of the member's contributing
service.

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the member's total earnable salary.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of the Revised Code.

(P) "Pensions" means annual payments for life derived from

contributions made by the employer that at the time of retirement 6852
are credited into the annuity and pension reserve fund from the 6853
employers' accumulation fund and paid from the annuity and pension 6854
reserve fund as provided in this chapter. All pensions shall be 6855
paid in twelve equal monthly installments. 6856

(Q) "Retirement allowance" means the pension plus that 6857
portion of the benefit derived from contributions made by the 6858
member. 6859

(R)(1) Except as otherwise provided in division (R) of this 6860
section, "earnable salary" means all salary, wages, and other 6861
earnings paid to a contributor by reason of employment in a 6862
position covered by the retirement system. The salary, wages, and 6863
other earnings shall be determined prior to determination of the 6864
amount required to be contributed to the employees' savings fund 6865
under section 145.47 of the Revised Code and without regard to 6866
whether any of the salary, wages, or other earnings are treated as 6867
deferred income for federal income tax purposes. "Earnable salary" 6868
includes the following: 6869

(a) Payments made by the employer in lieu of salary, wages, 6870
or other earnings for sick leave, personal leave, or vacation used 6871
by the contributor; 6872

(b) Payments made by the employer for the conversion of sick 6873
leave, personal leave, and vacation leave accrued, but not used if 6874
the payment is made during the year in which the leave is accrued, 6875
except that payments made pursuant to section 124.383 or 124.386 6876
of the Revised Code are not earnable salary; 6877

(c) Allowances paid by the employer for full maintenance, 6878
consisting of housing, laundry, and meals, as certified to the 6879
retirement board by the employer or the head of the department 6880
that employs the contributor; 6881

(d) Fees and commissions paid under section 507.09 of the 6882

Revised Code;	6883
(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;	6884 6885 6886 6887
(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.	6888 6889
(2) "Earnable salary" does not include any of the following:	6890
(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;	6891 6892 6893 6894
(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;	6895 6896 6897 6898 6899
(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;	6900 6901 6902 6903
(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	6904 6905 6906
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	6907 6908 6909 6910
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into	6911 6912

account by the retirement system under division (a)(17) of section 6913
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 6914
U.S.C.A. 401(a)(17), as amended; 6915

(g) Payments made under division (B), (C), or (E) of section 6916
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 6917
No. 3 of the 119th general assembly, Section 3 of Amended 6918
Substitute Senate Bill No. 164 of the 124th general assembly, or 6919
Amended Substitute House Bill No. 405 of the 124th general 6920
assembly; 6921

(h) Anything of value received by the contributor that is 6922
based on or attributable to retirement or an agreement to retire, 6923
except that payments made on or before January 1, 1989, that are 6924
based on or attributable to an agreement to retire shall be 6925
included in earnable salary if both of the following apply: 6926

(i) The payments are made in accordance with contract 6927
provisions that were in effect prior to January 1, 1986; 6928

(ii) The employer pays the retirement system an amount 6929
specified by the retirement board equal to the additional 6930
liability resulting from the payments. 6931

(3) The retirement board shall determine by rule whether any 6932
compensation not enumerated in division (R) of this section is 6933
earnable salary, and its decision shall be final. 6934

(S) "Pension reserve" means the present value, computed upon 6935
the basis of the mortality and other tables adopted by the board, 6936
of all payments to be made on account of any retirement allowance 6937
or benefit in lieu of any retirement allowance, granted to a 6938
member or beneficiary under this chapter. 6939

(T)(1) "Contributing service" means all service credited to a 6940
member of the system since January 1, 1935, for which 6941
contributions are made as required by sections 145.47, 145.48, and 6942

145.483 of the Revised Code. In any year subsequent to 1934,
credit for any service shall be allowed by the following formula:

(a) For each month for which the member's earnable salary is
two hundred fifty dollars or more, allow one month's credit.

(b) For each month for which the member's earnable salary is
less than two hundred fifty dollars, allow a fraction of a month's
credit. The numerator of this fraction shall be the earnable
salary during the month, and the denominator shall be two hundred
fifty dollars, except that if the member's annual earnable salary
is less than six hundred dollars, the member's credit shall not be
reduced below twenty per cent of a year for a calendar year of
employment during which the member worked each month. Division
(T)(1)(b) of this section shall not reduce any credit earned
before January 1, 1985.

(2) Notwithstanding division (T)(1) of this section, an
elected official who prior to January 1, 1980, was granted a full
year of credit for each year of service as an elected official
shall be considered to have earned a full year of credit for each
year of service regardless of whether the service was full-time or
part-time. The public employees retirement board has no authority
to reduce the credit.

(U) "State retirement board" means the public employees
retirement board, the school employees retirement board, or the
state teachers retirement board.

(V) "Retirant" means any former member who retires and is
receiving a monthly allowance as provided in sections 145.32,
145.33, 145.331, 145.34, and 145.46 of the Revised Code.

(W) "Employer contribution" means the amount paid by an
employer as determined under section 145.48 of the Revised Code.

(X) "Public service terminates" means the last day for which

a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member

paid increased contributions thereon shall be used in determining 7005
the member's earnable salary for the purpose of computing the 7006
member's final average salary. 7007

(Z) "Five years of service credit," for the exclusive purpose 7008
of satisfying the service credit requirements and of determining 7009
eligibility for benefits under section 145.33 of the Revised Code, 7010
means employment covered under this chapter or under a former 7011
retirement plan operated, recognized, or endorsed by the employer 7012
prior to coverage under this chapter or under a combination of the 7013
coverage. 7014

(AA) "Deputy sheriff" means any person who is commissioned 7015
and employed as a full-time peace officer by the sheriff of any 7016
county, and has been so employed since on or before December 31, 7017
1965, and whose primary duties are to preserve the peace, to 7018
protect life and property, and to enforce the laws of this state; 7019
any person who is or has been commissioned and employed as a peace 7020
officer by the sheriff of any county since January 1, 1966, and 7021
who has received a certificate attesting to the person's 7022
satisfactory completion of the peace officer training school as 7023
required by section 109.77 of the Revised Code and whose primary 7024
duties are to preserve the peace, protect life and property, and 7025
enforce the laws of this state; or any person deputized by the 7026
sheriff of any county and employed pursuant to section 2301.12 of 7027
the Revised Code as a criminal bailiff or court constable who has 7028
received a certificate attesting to the person's satisfactory 7029
completion of the peace officer training school as required by 7030
section 109.77 of the Revised Code and whose primary duties are to 7031
preserve the peace, protect life and property, and enforce the 7032
laws of this state. 7033

(BB) "Township constable or police officer in a township 7034
police department or district" means any person who is 7035
commissioned and employed as a full-time peace officer pursuant to 7036

Chapter 505. or 509. of the Revised Code, who has received a
certificate attesting to the person's satisfactory completion of
the peace officer training school as required by section 109.77 of
the Revised Code, and whose primary duties are to preserve the
peace, protect life and property, and enforce the laws of this
state.

(CC) "Drug agent" means any person who is either of the
following:

(1) Employed full-time as a narcotics agent by a county
narcotics agency created pursuant to section 307.15 of the Revised
Code and has received a certificate attesting to the satisfactory
completion of the peace officer training school as required by
section 109.77 of the Revised Code;

(2) Employed full-time as an undercover drug agent as defined
in section 109.79 of the Revised Code and is in compliance with
section 109.77 of the Revised Code.

(DD) "Department of public safety enforcement agent" means a
full-time employee of the department of public safety who is
designated under section 5502.14 of the Revised Code as an
enforcement agent and who is in compliance with section 109.77 of
the Revised Code.

(EE) "Natural resources law enforcement staff officer" means
a full-time employee of the department of natural resources who is
designated a natural resources law enforcement staff officer under
section 1501.013 of the Revised Code and is in compliance with
section 109.77 of the Revised Code.

(FF) "Park officer" means a full-time employee of the
department of natural resources who is designated a park officer
under section 1541.10 of the Revised Code and is in compliance
with section 109.77 of the Revised Code.

(GG) "Forest officer" means a full-time employee of the 7067
department of natural resources who is designated a forest officer 7068
under section 1503.29 of the Revised Code and is in compliance 7069
with section 109.77 of the Revised Code. 7070

(HH) "Preserve officer" means a full-time employee of the 7071
department of natural resources who is designated a preserve 7072
officer under section 1517.10 of the Revised Code and is in 7073
compliance with section 109.77 of the Revised Code. 7074

(II) "Wildlife officer" means a full-time employee of the 7075
department of natural resources who is designated a wildlife 7076
officer under section 1531.13 of the Revised Code and is in 7077
compliance with section 109.77 of the Revised Code. 7078

(JJ) "State watercraft officer" means a full-time employee of 7079
the department of natural resources who is designated a state 7080
watercraft officer under section 1547.521 of the Revised Code and 7081
is in compliance with section 109.77 of the Revised Code. 7082

(KK) "Park district police officer" means a full-time 7083
employee of a park district who is designated pursuant to section 7084
511.232 or 1545.13 of the Revised Code and is in compliance with 7085
section 109.77 of the Revised Code. 7086

(LL) "Conservancy district officer" means a full-time 7087
employee of a conservancy district who is designated pursuant to 7088
section 6101.75 of the Revised Code and is in compliance with 7089
section 109.77 of the Revised Code. 7090

(MM) "Municipal police officer" means a member of the 7091
organized police department of a municipal corporation who is 7092
employed full-time, is in compliance with section 109.77 of the 7093
Revised Code, and is not a member of the Ohio police and fire 7094
pension fund. 7095

(NN) "Veterans' home police officer" means any person who is 7096

employed at a veterans' home as a police officer pursuant to 7097
section 5907.02 of the Revised Code and is in compliance with 7098
section 109.77 of the Revised Code. 7099

(OO) "Special police officer for a mental health institution" 7100
means any person who is designated as such pursuant to section 7101
5119.14 of the Revised Code and is in compliance with section 7102
109.77 of the Revised Code. 7103

(PP) "Special police officer for an institution for the 7104
mentally retarded and developmentally disabled" means any person 7105
who is designated as such pursuant to section 5123.13 of the 7106
Revised Code and is in compliance with section 109.77 of the 7107
Revised Code. 7108

(QQ) "State university law enforcement officer" means any 7109
person who is employed full-time as a state university law 7110
enforcement officer pursuant to section 3345.04 of the Revised 7111
Code and who is in compliance with section 109.77 of the Revised 7112
Code. 7113

(RR) "House sergeant at arms" means any person appointed by 7114
the speaker of the house of representatives under division (B)(1) 7115
of section 101.311 of the Revised Code who has arrest authority 7116
under division (E)(1) of that section. 7117

(SS) "Assistant house sergeant at arms" means any person 7118
appointed by the house sergeant at arms under division (C)(1) of 7119
section 101.311 of the Revised Code. 7120

(TT) "Regional transit authority police officer" means a 7121
person who is employed full time as a regional transit authority 7122
police officer under division (Y) of section 306.35 of the Revised 7123
Code and is in compliance with section 109.77 of the Revised Code. 7124

(UU) "State highway patrol police officer" means a special 7125
police officer employed full time and designated by the 7126

superintendent of the state highway patrol pursuant to section 7127
5503.09 of the Revised Code or a person serving full time as a 7128
special police officer pursuant to that section on a permanent 7129
basis on October 21, 1997, who is in compliance with section 7130
109.77 of the Revised Code. 7131

(VV) "Municipal public safety director" means a person who 7132
serves full-time as the public safety director of a municipal 7133
corporation with the duty of directing the activities of the 7134
municipal corporation's police department and fire department. 7135

(WW) Notwithstanding section 2901.01 of the Revised Code, 7136
"PERS law enforcement officer" means a sheriff, deputy sheriff, 7137
township constable or police officer in a township police 7138
department or district, drug agent, municipal public safety 7139
director, department of public safety enforcement agent, natural 7140
resources law enforcement staff officer, park officer, forest 7141
officer, preserve officer, wildlife officer, state watercraft 7142
officer, park district police officer, conservancy district 7143
officer, veterans' home police officer, special police officer for 7144
a mental health institution, special police officer for an 7145
institution for the mentally retarded and developmentally 7146
disabled, state university law enforcement officer, municipal 7147
police officer, house sergeant at arms, assistant house sergeant 7148
at arms, regional transit authority police officer, or state 7149
highway patrol police officer. 7150

~~(WW)~~(XX) "Hamilton county municipal court bailiff" means a 7151
person appointed by the clerk of courts of the Hamilton county 7152
municipal court under division (A)(3) of section 1901.32 of the 7153
Revised Code who is employed full time as a bailiff or deputy 7154
bailiff, who has received a certificate attesting to the person's 7155
satisfactory completion of the peace officer basic training 7156
described in division (D)(1) of section 109.77 of the Revised 7157
Code, and whose primary duties are to preserve the peace, to 7158

protect life and property, and to enforce the laws of this state. 7159

~~(XX)~~(YY) "Fiduciary" means a person who does any of the 7160
following: 7161

(1) Exercises any discretionary authority or control with 7162
respect to the management of the system or with respect to the 7163
management or disposition of its assets; 7164

(2) Renders investment advice for a fee, direct or indirect, 7165
with respect to money or property of the system; 7166

(3) Has any discretionary authority or responsibility in the 7167
administration of the system. 7168

~~(YY)~~(ZZ) "Actuary" means an individual who satisfies all of 7169
the following requirements: 7170

(1) Is a member of the American academy of actuaries; 7171

(2) Is an associate or fellow of the society of actuaries; 7172

(3) Has a minimum of five years' experience in providing 7173
actuarial services to public retirement plans. 7174

~~(ZZ)~~(AAA) "PERS defined benefit plan" means the plan 7175
described in sections 145.201 to 145.79 of the Revised Code. 7176

~~(AAA)~~(BBB) "PERS defined contribution plans" means the plan 7177
or plans established under section 145.81 of the Revised Code. 7178

Sec. 145.33. (A) Except as provided in division (B) or (C) of 7179
this section, a member with at least five years of total service 7180
credit who has attained age sixty, or who has thirty years of 7181
total Ohio service credit, may apply for age and service 7182
retirement, which shall consist of: 7183

(1) An annuity having a reserve equal to the amount of the 7184
member's accumulated contributions at that time; 7185

(2) A pension equal to the annuity provided by division 7186

(A)(1) of this section;	7187		
(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;	7188 7189 7190 7191		
(4) A basic annual pension equal to one hundred eighty dollars if the member has ten or more years of total service credit as of October 1, 1956, except that the basic annual pension shall not exceed the sum of the annual benefits provided by divisions (A)(1), (2), and (3) of this section.	7192 7193 7194 7195 7196		
(5) When a member retires on age and service retirement, the member's total annual single lifetime allowance, including the allowances provided in divisions (A)(1), (2), (3), and (4) of this section, shall be not less than a base amount adjusted in accordance with division (A)(5) of this section and determined by multiplying the member's total service credit by the greater of the following:	7197 7198 7199 7200 7201 7202 7203		
(a) Eighty-six dollars;	7204		
(b) Two and two-tenths per cent of the member's final average salary for each of the first thirty years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service.	7205 7206 7207 7208		
The allowance shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:	7209 7210 7211		
	Years of Total Service Credit	Percentage of Base Amount	7212 7213 7214
Attained Birthday	or		
58		25	75
59		26	80
60		27	85
			7215 7216 7217

61		88	7218
	28	90	7219
62		91	7220
63		94	7221
	29	95	7222
64		97	7223
65	30 or more	100	7224

Members shall vest the right to a benefit in accordance with 7225
the following schedule, based on the member's attained age by 7226
September 1, 1976: 7227

Attained	Percentage	
Birthday	of	
	Base Amount	
66	102	7231
67	104	7232
68	106	7233
69	108	7234
70 or more	110	7235

(6) The total annual single lifetime allowance that a member 7236
shall receive under division (A)(5) of this section shall not 7237
exceed the lesser of one hundred per cent of the member's final 7238
average salary or the limit established by section 415 of the 7239
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 7240
as amended. 7241

(B)(1) For the purposes of divisions (B) to (G) of this 7242
section, "total service credit as a PERS law enforcement officer" 7243
and "total service credit as a Hamilton county municipal court 7244
bailiff" include credit for military service to the extent 7245
permitted by division (E)(2) of this section and credit for 7246
service as a police officer or state highway patrol trooper to the 7247
extent permitted by divisions (E)(3) and (4) of this section. 7248

(2) A member who meets the conditions in division (B)(2)(a), 7249

(b), (c), or (d) of this section may apply for an age and service retirement benefit under this division:	7250 7251
(a) The member has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;	7252 7253 7254 7255 7256
(b) The member has attained age fifty-two, and has at least twenty-five years of total service credit as a PERS law enforcement officer, but the member's primary duties were other than to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;	7257 7258 7259 7260 7261
(c) The member has attained age fifty-two and has at least twenty-five years of total service as a Hamilton county municipal court bailiff;	7262 7263 7264
(d) The member has attained age sixty-two and has at least fifteen years of total service credit as either of the following:	7265 7266
(i) A PERS law enforcement officer;	7267
(ii) A Hamilton county municipal court bailiff.	7268
(3) A benefit paid under division (B)(2) of this section shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty-five years of the member's total service plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of the member's total service credit in excess of twenty-five years.	7269 7270 7271 7272 7273 7274 7275
(4) A member with at least fifteen years of total service credit as a PERS law enforcement officer or Hamilton county municipal court bailiff who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate	7276 7277 7278 7279

habits, or conviction of a felony may apply for an age and service 7280
retirement benefit, which shall consist of an annual single 7281
lifetime allowance equal to one and one-half per cent of the 7282
member's final average salary multiplied by the number of years of 7283
the member's total service credit. The allowance shall commence on 7284
the first day of the calendar month following the month in which 7285
the application is filed with the public employees retirement 7286
board on or after the attainment by the applicant of age 7287
fifty-two. 7288

(C)(1) A member with at least twenty-five years of total 7289
service credit who would be eligible to retire under division 7290
(B)(2)(b) or (c) of this section had the member attained age 7291
fifty-two and who voluntarily resigns or is discharged for any 7292
reason except death, dishonesty, cowardice, intemperate habits, or 7293
conviction of a felony, on or after the date of attaining 7294
forty-eight years of age, but before the date of attaining 7295
fifty-two years of age, may elect to receive a reduced benefit as 7296
determined by the following schedule: 7297

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	7299
	division (B)(3) of this section	7300
49	80% of the benefit payable under	7301
	division (B)(3) of this section	7302
50	86% of the benefit payable under	7303
	division (B)(3) of this section	7304
51	93% of the benefit payable under	7305
	division (B)(3) of this section	7306

(2) If a member elects to receive a reduced benefit after 7307
attaining age forty-eight the reduced benefit is payable from the 7308
later of the date of the member's most recent birthday or the date 7309
the member becomes eligible to receive the reduced benefit. 7310

(3) Once a member elects to receive a reduced benefit 7311

determined by the schedule in division (C)(1) of this section and
has received a payment, the member may not reelect to change that
election.

(4) If a member who has resigned or been discharged has left
on deposit the member's accumulated contributions in the
employees' savings fund and has not elected to receive a reduced
benefit determined by the schedule in division (C)(1) of this
section, upon attaining fifty-two years of age, the member shall
be entitled to receive a benefit computed and paid under division
(B)(3) of this section.

(D) A benefit paid under division (B) or (C) of this section
shall not exceed the lesser of ninety per cent of the member's
final average salary or the limit established by section 415 of
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A.
415, as amended.

(E)(1) A member with service credit as a PERS law enforcement
officer or a Hamilton county municipal court bailiff and other
service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this
chapter, including credit for service as a PERS law enforcement
officer or Hamilton county municipal court bailiff, used in
calculating a retirement allowance under division (A) of this
section if the member qualifies for an allowance under that
division;

(b) If the member qualifies for an allowance under division
(B) or (C) of this section, to have the member's service credit as
a PERS law enforcement officer or Hamilton county municipal court
bailiff used in calculating a benefit under the appropriate
division and the member's credit for all service other than PERS
law enforcement service or service as a Hamilton county municipal
court bailiff under this chapter used in calculating a benefit

consisting of a single life annuity having a reserve equal to the 7343
amount of the member's accumulated contributions and an equal 7344
amount of the employer's contributions. 7345

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 7346
Code, no more than four years of military service credit granted 7347
under section 145.30 of the Revised Code and five years of 7348
military service credit purchased under section 145.301 or 145.302 7349
of the Revised Code shall be used in calculating service as a PERS 7350
law enforcement officer or Hamilton county municipal court bailiff 7351
or the total service credit of that person. 7352

(3) Only credit for the member's service as a PERS law 7353
enforcement officer or service credit obtained as a police officer 7354
or state highway patrol trooper shall be used in computing the 7355
benefit of a member who qualifies for a benefit under division 7356
(B)(2)(a), (b), or (d)(ii) or (4) or division (C) of this section 7357
for the following: 7358

(a) Any person who originally is commissioned and employed as 7359
a deputy sheriff by the sheriff of any county, or who originally 7360
is elected sheriff, on or after January 1, 1975; 7361

(b) Any deputy sheriff who originally is employed as a 7362
criminal bailiff or court constable on or after April 16, 1993; 7363

(c) Any person who originally is appointed as a township 7364
constable or police officer in a township police department or 7365
district on or after January 1, 1981; 7366

(d) Any person who originally is employed as a county 7367
narcotics agent on or after September 26, 1984; 7368

(e) Any person who originally is employed as an undercover 7369
drug agent as defined in section 109.79 of the Revised Code, 7370
department of public safety enforcement agent who prior to June 7371
30, 1999, was a liquor control investigator, park officer, forest 7372

officer, wildlife officer, state watercraft officer, park district	7373
police officer, conservancy district officer, veterans' home	7374
police officer, special police officer for a mental health	7375
institution, special police officer for an institution for the	7376
mentally retarded and developmentally disabled, or municipal	7377
police officer on or after December 15, 1988;	7378
(f) Any person who originally is employed as a state	7379
university law enforcement officer on or after November 6, 1996;	7380
(g) Any person who is originally employed as a state	7381
university law enforcement officer by the university of Akron on	7382
or after September 16, 1998;	7383
(h) Any person who originally is employed as a preserve	7384
officer on or after March 18, 1999;	7385
(i) Any person who originally is employed as a natural	7386
resources law enforcement staff officer on or after March 18,	7387
1999;	7388
(j) Any person who is originally employed as a department of	7389
public safety enforcement agent on or after June 30, 1999;	7390
(k) Any person who is originally employed as a house sergeant	7391
at arms or assistant house sergeant at arms on or after September	7392
5, 2001;	7393
(l) Any person who is originally appointed as a regional	7394
transit authority police officer or state highway patrol police	7395
officer on or after February 1, 2002;	7396
<u>(m) Any person who is originally employed as a municipal</u>	7397
<u>public safety director on or after the effective date of this</u>	7398
<u>amendment.</u>	7399
(4) Only credit for a member's service as a Hamilton county	7400
municipal court bailiff or service credit obtained as a PERS law	7401
enforcement officer, police officer, or state highway patrol	7402

trooper shall be used in computing the benefit of a member who 7403
qualifies for a benefit under division (B)(2)(c) or (d)(ii) or (4) 7404
or division (C) of this section for any person who originally is 7405
employed as a Hamilton county municipal court bailiff on or after 7406
November 6, 1996. 7407

(F) Retirement allowances determined under this section shall 7408
be paid as provided in section 145.46 of the Revised Code. 7409

(G) For the purposes of this section, service prior to June 7410
30, 1999, as a food stamp trafficking agent under former section 7411
5502.14 of the Revised Code shall be considered service as a law 7412
enforcement officer. 7413

Sec. 147.05. (A) Before entering upon the duties of the 7414
office of notary public, a notary public shall leave the notary 7415
public's commission with the oath endorsed on the commission with 7416
the clerk of the court of common pleas of the county in which the 7417
notary public resides. The clerk shall record the commission in a 7418
book kept for that purpose. The clerk shall endorse on the margin 7419
of the record and on the back of the commission the time that the 7420
clerk received the commission for record and make a proper index 7421
to all commissions so recorded. For recording and indexing a 7422
commission, the fee of the clerk shall be as provided in division 7423
(R) of section 2303.20 of the Revised Code. 7424

(B) The secretary of state shall maintain a record of the 7425
commissions of each notary public appointed and commissioned by 7426
the secretary of state under this chapter and make a proper index 7427
to that record. 7428

The governor's office shall transfer to the secretary of 7429
state's office, on or after ~~the effective date of this amendment~~ 7430
June 6, 2001, the record of notaries public formerly kept by the 7431
governor's office under section 107.10 of the Revised Code. The 7432

secretary of state's office shall maintain that record together 7433
with the record and index of commissions of notaries public 7434
required by this division. 7435

(C) If a notary public legally changes the notary public's 7436
name or address after having been commissioned as a notary public, 7437
the notary public shall notify the secretary of state and the 7438
appropriate clerk of courts within thirty days after the name or 7439
address change. Notification to the secretary of state shall be on 7440
a form prescribed by the secretary of state. 7441

(D) A notary, other than an attorney, who resigns the 7442
person's commission shall deliver to the secretary of state, on a 7443
form prescribed by the secretary of state, a written notice 7444
indicating the effective date of resignation. 7445

Sec. 147.10. No notary public shall do or perform any act as 7446
a notary public knowing that ~~his~~ the notary public's term of 7447
office has expired or that the notary public has resigned the 7448
notary public's commission. 7449

Sec. 147.11. A person appointed notary public who performs 7450
any act as such after the expiration of ~~his~~ the person's term of 7451
office or after the person resigns the person's commission, 7452
knowing that ~~his~~ the person's term has expired or that the person 7453
has resigned, shall forfeit not more than five hundred dollars, to 7454
be recovered by an action in the name of the state. Such act shall 7455
render ~~such~~ the person ineligible for reappointment. 7456

Sec. 147.12. An official act done by a notary public after 7457
the expiration of ~~his~~ the notary public's term of office or after 7458
the notary public resigns the notary public's commission is as 7459
valid as if done during ~~his~~ the notary public's term of office. 7460

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an 7461

affidavit that the original commission of a notary public has been 7462
lost or destroyed, a duplicate commission as notary public shall 7463
be issued by the secretary of state. 7464

(B) Upon receipt of a fee of two dollars and the properly 7465
completed, prescribed form for a name and address change under 7466
division (C) of section 147.05 of the Revised Code, the secretary 7467
of state shall issue a duplicate commission as a notary public. 7468

Sec. 150.07. (A) For the purpose stated in section 150.01 of 7469
the Revised Code, the authority may authorize a lender to claim 7470
one of the tax credits allowed under section 5707.031, 5725.19, 7471
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 7472
credits shall be authorized by a written contract with the lender. 7473
The contract shall specify the terms under which the lender may 7474
claim the credit, including the amount of loss, if any, the lender 7475
must incur before the lender may claim the credit; specify that 7476
the credit shall not exceed the amount of the loss; and specify 7477
that the lender may claim the credit only for a loss certified by 7478
a program administrator to the authority under the procedures 7479
prescribed under division (B)(6) of section 150.05 of the Revised 7480
Code. 7481

(B) Tax credits may be authorized at any time after the 7482
authority establishes the investment policy under section 150.03 7483
of the Revised Code, but a tax credit so authorized may not be 7484
claimed until the beginning of the fifth year after the authority 7485
establishes the investment policy. A tax credit may not be claimed 7486
after June 30, 2026. 7487

(C) Upon receiving certification of a lender's loss from a 7488
program administrator pursuant to the procedures in the investment 7489
policy, the authority shall issue a tax credit certificate to the 7490
lender, except as otherwise provided in division (D) of this 7491
section. The authority shall not issue a certificate until the 7492

lender, in the manner prescribed by the authority, elects to 7493
receive a refundable or nonrefundable tax credit. The election, 7494
once made, is irrevocable. The certificate shall state the amount 7495
of the credit, whether the credit is refundable or nonrefundable, 7496
and the calendar year, under section 5707.031, 5725.19, 5727.241, 7497
or 5729.08, the tax year, under section 5733.49, or the taxable 7498
year under section 5747.80 of the Revised Code, for which the 7499
credit may be claimed. The authority, in conjunction with the tax 7500
commissioner, shall develop a system for issuing tax credit 7501
certificates for the purpose of verifying that any credit claimed 7502
is a credit issued under this section and is properly taken in the 7503
year specified in the certificate and in compliance with division 7504
(B) of this section. 7505

(D) The authority shall not, in any fiscal year, issue tax 7506
credit certificates in a total amount exceeding twenty million 7507
dollars. 7508

Sec. 150.10. (A) On the first day of January of the second 7509
year after the date of entering into an agreement under section 7510
150.05 of the Revised Code and of each ensuing year, the authority 7511
shall file with the clerk of the house of representatives, the 7512
clerk of the senate, and the chairpersons of the house and senate 7513
standing committees predominantly concerned with economic 7514
development a written report on the Ohio venture capital program. 7515
The report shall include all the following: 7516

(1) A description of the details of the investment policy 7517
established or modified in accordance with sections 150.03 and 7518
150.04 of the Revised Code; 7519

(2) The authority's assessment of the program's achievement 7520
of its purpose stated in section 150.01 of the Revised Code; 7521

(3) The value of tax credit certificates issued by the 7522

authority under section 150.07 of the Revised Code in each fiscal year ending on or before the preceding thirtieth day of June; 7523
7524

(4) The amount of tax credits claimed pursuant to section 5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to the respective taxes involved; 7525
7526
7527

(5) The financial status of the Ohio venture capital fund; 7528

(6) The names of venture capital funds in which money from the program fund has been invested and the locations of their principal offices, and the names of the enterprises in which each of those venture capital funds has invested such money and the locations of those enterprises' principal offices; 7529
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(7) Any recommendations for modifying the program to better achieve the purpose stated in section 150.01 of the Revised Code. 7534
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(B) During each year that a report is issued under division (A) of this section, the chairperson of the authority, or another member of the authority designated by the chairperson as the authority's representative, shall be required to appear in person before the standing committees of the house and senate predominantly concerned with economic development to give testimony concerning the status of the Ohio venture capital program. 7536
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Sec. 153.44. Before work is done or material furnished, ~~all~~ contracts ~~the board of county commissioners shall submit each~~ contract that ~~exceed~~ exceeds one thousand dollars in amount ~~shall be submitted by the board of county commissioners~~ to the prosecuting attorney of the county. If ~~found by him~~ the prosecuting attorney finds the contract to be in accordance with ~~sections 153.01 to 153.60, inclusive, of the Revised Code~~ this chapter, and ~~his~~ the prosecuting attorney's certificate to that effect is ~~indorsed thereon~~ endorsed on the contract, ~~such~~ 7544
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~~contracts~~ the contract shall have full force and effect, ~~otherwise~~ 7553
~~they shall be void.~~ 7554

Sec. 153.692. Upon the selection of a professional design 7555
firm pursuant to sections 153.65 to 153.71 of the Revised Code, 7556
the public authority shall submit the awarded contract for design 7557
services to its legal counsel. If the legal counsel determines 7558
that the contract was awarded in accordance with those sections, 7559
and the legal counsel's certificate to that effect is endorsed on 7560
the contract, the contract shall have full force and effect. 7561

Sec. 173.39. As used in sections 173.39 to 173.397 of the 7562
Revised Code, "community-based long-term care services" has the 7563
same meaning as in section 173.14 of the Revised Code. 7564

The department of aging may not pay a person or government 7565
entity for providing community-based long-term care services under 7566
a program the department administers unless the person or 7567
government entity is certified under section 173.391 of the 7568
Revised Code, contracts with the department or the department's 7569
designee to provide the services, and provides the services. 7570

Sec. 173.391. The department of aging or its designee shall 7571
do all of the following in accordance with Chapter 119. of the 7572
Revised Code: 7573

(A) Certify a person or government entity to provide 7574
community-based long-term care services under a program the 7575
department administers if the person or government entity 7576
satisfies the requirements for certification established by rules 7577
adopted under section 173.393 of the Revised Code and pays the 7578
certification fee established in those rules; 7579

(B) When required to do so by rules adopted under section 7580
173.393 of the Revised Code, take one or more of the following 7581

<u>disciplinary actions against a person or government entity issued</u>	7582
<u>a certificate under division (A) of this section:</u>	7583
<u>(1) Issue a written warning;</u>	7584
<u>(2) Require the submission of a plan of correction;</u>	7585
<u>(3) Suspend referrals;</u>	7586
<u>(4) Remove clients;</u>	7587
<u>(5) Impose a fiscal sanction such as a civil monetary penalty</u>	7588
<u>or an order that unearned funds be repaid;</u>	7589
<u>(6) Revoke the certificate;</u>	7590
<u>(7) Impose another sanction.</u>	7591
<u>(C) Hold hearings when there is a dispute between the</u>	7592
<u>department or its designee and a person or government entity</u>	7593
<u>concerning actions the department or its designee takes or does</u>	7594
<u>not take under division (A) or (B) of this section.</u>	7595
<u>Sec. 173.392. There is hereby created in the state treasury</u>	7596
<u>the community-based long-term care provider certification fund.</u>	7597
<u>All fees collected under section 173.391 of the Revised Code shall</u>	7598
<u>be deposited into the fund. The department of aging shall use the</u>	7599
<u>money in the fund to implement sections 173.39 to 173.397 of the</u>	7600
<u>Revised Code.</u>	7601
<u>Sec. 173.393. The director of aging shall adopt rules under</u>	7602
<u>Chapter 119. of the Revised Code concerning all of the following:</u>	7603
<u>(A) Requirements a person or government entity must satisfy</u>	7604
<u>to obtain a certificate under section 173.391 of the Revised Code;</u>	7605
<u>(B) The fee for obtaining the certificate;</u>	7606
<u>(C) Procedures for ensuring that PASSPORT agencies, as</u>	7607
<u>defined in section 173.41 of the Revised Code, comply with that</u>	7608

<u>section;</u>	7609
<u>(D) Procedures for evaluating the services provided by persons and government entities seeking or holding the certificate to ensure that the services are provided in a quality manner advantageous to the individual receiving the services;</u>	7610 7611 7612 7613
<u>(E) Procedures for determining when to take disciplinary action under division (B) of section 173.391 of the Revised Code and which disciplinary action to take;</u>	7614 7615 7616
<u>(F) Contracts between the department of aging, or the department's designee, and persons and government entities regarding community-based long-term care services provided under a program the department administers;</u>	7617 7618 7619 7620
<u>(G) The department's payment for community-based long-term care services provided under a contract described in division (F) of this section.</u>	7621 7622 7623
<u>Sec. 173.394.</u> <u>The rules adopted under division (B) of section 173.393 of the Revised Code shall provide for the fee to be an amount that enables the department of aging to collect enough revenue to cover all of the department's costs of implementing sections 173.39 to 173.397 of the Revised Code.</u>	7624 7625 7626 7627 7628
<u>Sec. 173.395.</u> <u>The procedures established in rules adopted under division (D) of section 173.393 of the Revised Code shall require that all of the following be considered as part of an evaluation:</u>	7629 7630 7631 7632
<u>(A) The service provider's experience and financial responsibility;</u>	7633 7634
<u>(B) The service provider's ability to comply with standards for the community-based long-term care services that the provider provides under a program the department of aging administers;</u>	7635 7636 7637

(C) The service provider's ability to meet the needs of the 7638
individuals served; 7639

(D) Any other factor the director of aging considers 7640
relevant. 7641

Sec. 173.396. The rules adopted under division (E) of section 7642
173.393 of the Revised Code shall specify that the reasons 7643
disciplinary action may be taken under division (B) of section 7644
173.391 of the Revised Code include good cause, including 7645
misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, 7646
financial irresponsibility, or other conduct the director of aging 7647
determines is injurious to the health or safety of individuals 7648
being served. 7649

Sec. 173.397. The records of an evaluation conducted in 7650
accordance with rules adopted under division (D) of section 7651
173.393 of the Revised Code are public records for purposes of 7652
section 149.43 of the Revised Code and shall be made available on 7653
request of any person, including individuals receiving or seeking 7654
community-based long-term care services under a program the 7655
department of aging administers. 7656

Sec. 173.40. There is hereby created a medicaid waiver 7657
component ~~of the medicaid program established under Chapter 5111.~~ 7658
as defined in section 5111.85 of the Revised Code, to be known as 7659
the preadmission screening system providing options and resources 7660
today program, or PASSPORT. The PASSPORT program shall provide 7661
home and community-based services as an alternative to nursing 7662
facility placement for aged and disabled medicaid recipients. The 7663
program shall be operated pursuant to a home and community-based 7664
waiver granted by the United States secretary of health and human 7665
services under section 1915 of the "Social Security Act," 49 Stat. 7666
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 7667

shall administer the program through a contract entered into with 7668
the department of job and family services under section 5111.91 of 7669
the Revised Code. The ~~directors~~ director of ~~aging and~~ job and 7670
family services shall adopt rules under section 5111.85 of the 7671
Revised Code and the director of aging shall adopt rules in 7672
accordance with Chapter 119. of the Revised Code to implement the 7673
program. 7674

Sec. ~~5101.75~~ 173.42. (A) As used in ~~sections 5101.75,~~ 7675
~~5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code~~ 7676
this section: 7677

(1) "~~Alternative source of long term care~~" ~~includes a~~ 7678
~~residential care facility licensed under Chapter 3721. of the~~ 7679
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 7680
~~of the Revised Code, home and community based services, and a~~ 7681
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 7682
~~is not a nursing facility~~ Area agency on aging" means a public or 7683
private nonprofit entity designated under section 173.011 of the 7684
Revised Code to administer programs on behalf of the department of 7685
aging. 7686

(2) "Medicaid" means the medical assistance program 7687
established under Chapter 5111. of the Revised Code. 7688

(3) "Nursing facility" has the same meaning as in section 7689
5111.20 of the Revised Code. 7690

(4) "Representative" means a person acting on behalf of an 7691
~~applicant~~ individual seeking information on long-term care 7692
services, applying for admission to a nursing facility, or 7693
residing in a nursing facility. A representative may be a family 7694
member, attorney, hospital social worker, or any other person 7695
chosen to act on behalf of ~~an applicant~~ the individual. 7696

~~(5) "Third party payment source" means a third party payer as~~ 7697

~~defined in section 3901.38 of the Revised Code or medicaid.~~

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~~(B) Effective July 1, 1994, the department of job and family services may assess a person applying or intending to apply for admission to a nursing facility who is not an applicant for or recipient of medicaid to determine whether the person is in need of nursing facility services and whether an alternative source of long-term care is more appropriate for the person in meeting the person's physical, mental, and psychosocial needs than admission to the facility to which the person has applied.~~

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~~Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may~~

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(1) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with information through professional consultations about options available to meet long-term care needs and about factors to consider in making long-term care decisions. Except as provided in division (B)(2) of this section, the program shall be administered by the department.

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(2) The department may enter into a contract with an area

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agency on aging or other entity selected by the department under 7729
which the long-term care consultation program for a particular 7730
area is administered by the area agency on aging or other entity 7731
pursuant to the contract. 7732

(C) The long-term care consultations performed for purposes 7733
of this section shall be performed only by persons individuals 7734
certified by the department under section 5101.752 173.43 of the 7735
Revised Code. The department or designated agency shall make a 7736
recommendation on the basis of the assessment and, not later than 7737
the time the assessment is required to be performed under division 7738
(D) of this section, give the person assessed written notice of 7739
the recommendation, which shall explain the basis for the 7740
recommendation. If the department or designated agency determines 7741
pursuant to an assessment that an alternative source of long term 7742
care is more appropriate for the person than admission to the 7743
facility to which the person has applied, the department or 7744
designated agency shall include in the notice possible sources of 7745
financial assistance for the alternative source of long term care. 7746
If the department or designated agency has been informed that the 7747
person has a representative, it shall give the notice to the 7748
representative. 7749

(C) A person (D) The information provided through a long-term 7750
care consultation shall be appropriate to the individual's needs 7751
and situation and shall address all of the following: 7752

(1) The availability of any long-term care options open to 7753
the individual; 7754

(2) Sources and methods of both public and private payment 7755
for long-term care services; 7756

(3) Factors to consider when choosing among the available 7757
programs, services, and benefits; 7758

(4) Opportunities and methods for maximizing independence and 7759

self-reliance, including support services provided by the 7760
individual's family, friends, and community. 7761

(E) An individual's long-term care consultation may include 7762
an assessment of the individual's functional capabilities. The 7763
consultation may incorporate portions of the determinations 7764
required under sections 5111.202, 5119.061, and 5123.021 of the 7765
Revised Code and may be performed concurrently with the assessment 7766
required under section 5111.204 of the Revised Code. 7767

(F)(1) Unless an individual is exempt pursuant to division 7768
(H) of this section from receiving a long-term care consultation, 7769
a long-term care consultation shall be performed for both of the 7770
following: 7771

(a) Each individual who applies or indicates an intention to 7772
apply for admission to a nursing facility, regardless of the 7773
source of payment to be used for the individual's care in the 7774
nursing facility; 7775

(b) Each resident of a nursing facility who applies or 7776
indicates an intention to apply for medicaid. 7777

(2) Long-term care consultations may be performed for nursing 7778
facility residents who have not applied and have not indicated an 7779
intention to apply for medicaid. The purpose of consultations for 7780
these individuals shall be to determine continued need for nursing 7781
facility services, to provide information on alternative services, 7782
and to make referrals to alternative services. 7783

(G)(1) When a long-term care consultation is required to be 7784
performed pursuant to division (F)(1) of this section, the 7785
consultation shall be performed as follows or pursuant to division 7786
(G)(2) or (3) of this section: 7787

(a) If the individual for whom the consultation is being 7788
performed has applied for medicaid and the consultation is being 7789

performed concurrently with the assessment required under section 7790
5111.204 of the Revised Code, the consultation shall be completed 7791
in accordance with the applicable time frames specified in that 7792
section for providing a level of care determination based on the 7793
assessment. 7794

(b) In all other cases, the consultation shall be performed 7795
not later than five calendar days after the department or the 7796
program administrator under contract with the department receives 7797
notice of the reason for which the consultation is required to be 7798
performed pursuant to division (F)(1) of this section. 7799

(2) An individual or the individual's representative may 7800
request that a long-term care consultation be performed on a date 7801
that is later than the date required under division (G)(1)(a) or 7802
(b) of this section. 7803

(3) If a long-term care consultation cannot be completed 7804
within the number of days required by division (G)(1) or (2) of 7805
this section, the department or the program administrator under 7806
contract with the department may do any of the following: 7807

(a) Exempt the individual from the consultation pursuant to 7808
rules that may be adopted under division (K) of this section; 7809

(b) In the case of an applicant for admission to a nursing 7810
facility, perform the consultation after the individual is 7811
admitted to the nursing facility; 7812

(c) In the case of a resident of a nursing facility, perform 7813
the consultation as soon as practicable. 7814

(H) An individual is not required to be assessed given a 7815
long-term care consultation under ~~division (B)~~ of this section if 7816
any of the following apply: 7817

(1) The ~~circumstances~~ individual or the individual's 7818
representative chooses to forego participation in the consultation 7819

pursuant to criteria specified by in rules adopted under division 7820
~~(I)(K)~~ of this section exist.; 7821

(2) The ~~person~~ individual is to receive care in a nursing 7822
facility under a contract for continuing care as defined in 7823
section 173.13 of the Revised Code.; 7824

(3) The ~~person~~ individual has a contractual right to 7825
admission to a nursing facility operated as part of a system of 7826
continuing care in conjunction with one or more facilities that 7827
provide a less intensive level of services, including a 7828
residential care facility licensed under Chapter 3721. of the 7829
Revised Code, an ~~adult care~~ adult care facility licensed under 7830
Chapter 3722. of the Revised Code, or an independent living 7831
arrangement; 7832

(4) The ~~person~~ individual is to receive continual care in a 7833
home for the aged exempt from taxation under section 5701.13 of 7834
the Revised Code; 7835

(5) The ~~person is to receive care in the nursing facility for~~ 7836
~~not more than fourteen days in order to provide temporary relief~~ 7837
~~to the person's primary caregiver and the nursing facility~~ 7838
~~notifies the department of the person's admittance not later than~~ 7839
~~twenty four hours after admitting the person~~ individual is seeking 7840
admission to a facility that is not a nursing facility with a 7841
provider agreement under section 5111.22 of the Revised Code; 7842

(6) The ~~person~~ individual is to be transferred from another 7843
nursing facility , ~~unless the nursing facility from which or to~~ 7844
~~which the person is to be transferred determines that the person's~~ 7845
~~medical condition has changed substantially since the person's~~ 7846
~~admission to the nursing facility from which the person is to be~~ 7847
~~transferred or a review is required by a third party payment~~ 7848
~~source;~~ 7849

(7) The ~~person~~ individual is to be readmitted to a nursing 7850

facility following a period of hospitalization, unless the 7851
hospital or nursing facility determines that the person's medical 7852
condition has changed substantially since the person's admission 7853
to the hospital, or a review is required by a third party payment 7854
source; 7855

(8) The department or designated agency fails to complete an 7856
assessment within the time required by division (D) or (E) of this 7857
section or determines after a partial assessment that the person 7858
should be exempt from the assessment individual is exempted from 7859
the long-term care consultation requirement by the department or 7860
the program administrator pursuant to rules that may be adopted 7861
under division (K) of this section. 7862

(D) The department or designated agency shall perform a 7863
complete assessment, or, if circumstances provided by rules 7864
adopted under division (I) of this section exist, a partial 7865
assessment, as follows: 7866

(1) In the case of a hospitalized person applying or 7867
intending to apply to a nursing facility, not later than two 7868
working days after the person or the person's representative is 7869
notified that a bed is available in a nursing facility; 7870

(2) In the case of an emergency as determined in accordance 7871
with rules adopted under division (I) of this section, not later 7872
than one working day after the person or the person's 7873
representative is notified that a bed is available in a nursing 7874
facility; 7875

(3) In all other cases, not later than five calendar days 7876
after the person or the person's representative who submits the 7877
application is notified that a bed is available in a nursing 7878
facility. 7879

(E) If the department or designated agency conducts a partial 7880
assessment under division (D) of this section, it shall complete 7881

~~the rest of the assessment not later than one hundred eighty days
after the date the person is admitted to the nursing facility
unless the assessment entity determines the person should be
exempt from the assessment.~~

~~(F) A person assessed under this section or the person's
representative may file a complaint with the department about the
assessment process. The department shall work to resolve the
complaint in accordance with rules adopted under division (I) of
this section.~~

~~(G) A person (I) At the conclusion of an individual's
long-term care consultation, the department or the program
administrator under contract with the department shall provide the
individual or individual's representative with a written summary
of options and resources available to meet the individual's needs.
Even though the summary may specify that a source of long-term
care other than care in a nursing facility is appropriate and
available, the individual is not required to seek an alternative
source of long-term care and may be admitted to or continue to
reside in a nursing facility even though an alternative source of
long term care is available or the person is determined pursuant
to an assessment under this section not to need nursing facility
services.~~

~~(H)(J) No nursing facility for which an operator has a
provider agreement with the department under section 5111.22 of
the Revised Code shall admit or retain any person, other than a
person exempt from the assessment requirement as provided by
division (C) of this section, individual as a resident, unless the
nursing facility has received evidence that a ~~complete or partial
assessment~~ long-term care consultation has been completed for the
individual or division (H) of this section is applicable to the
individual.~~

~~(I)(K)~~ The director of job and family services shall aging 7913
may adopt any rules in accordance with Chapter 119. of the Revised 7914
Code to implement and administer the director considers necessary 7915
for the implementation and administration of this section. The 7916
rules shall ~~include~~ be adopted in accordance with Chapter 119. of 7917
the Revised Code and may specify all of the following: 7918

(1) ~~The information a person being assessed or the person's~~ 7919
~~representative must provide to enable the department or designated~~ 7920
~~agency to do the assessment;~~ 7921

~~(2) Criteria to be used to determine whether a person is in~~ 7922
~~need of nursing facility services;~~ 7923

~~(3) Criteria to be used to determine whether an alternative~~ 7924
~~source of long term care is appropriate for the person being~~ 7925
~~assessed;~~ 7926

~~(4) Criteria and procedures to be used to determine a~~ 7927
~~person's physical, mental, and psychosocial needs;~~ 7928

~~(5) Criteria to be used to determine the effectiveness and~~ 7929
~~continued availability of a person's current source of informal~~ 7930
~~support and care;~~ 7931

~~(6) Circumstances, in addition to those specified in division~~ 7932
~~(C) of this section, under which a person is not required to be~~ 7933
~~assessed;~~ 7934

~~(7) Circumstances under which the department or designated~~ 7935
~~agency may perform a partial assessment under division (D) of this~~ 7936
~~section;~~ 7937

~~(8) The method by which a situation will be determined to be~~ 7938
~~an emergency for the purpose of division (D)(2) of this section;~~ 7939

~~(9) The method by which the department will attempt to~~ 7940
~~resolve complaints filed under division (F) of this section~~ 7941
Procedures for performing long-term care consultations pursuant to 7942

<u>this section;</u>	7943
<u>(2) Information to be provided through long-term care consultations regarding long-term care services that are available;</u>	7944 7945 7946
<u>(3) Criteria for identifying nursing facility residents who would benefit from long-term care consultations;</u>	7947 7948
<u>(4) Criteria under which an individual or the individual's representative may chose to forego participation in a long-term care consultation;</u>	7949 7950 7951
<u>(5) Criteria for exempting individuals from the long-term care consultation requirement.</u>	7952 7953
(J)(L) The director of job and family services <u>aging</u> 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:	7954 7955 7956 7957
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	7958 7959 7960
(2) The <u>if the</u> nursing facility admits <u>or retains an individual</u>, without evidence that a complete or partial assessment long-term care consultation has been conducted performed, a person other than a person exempt from the assessment requirement as provided <u>required</u> by division (C) of this section.	7961 7962 7963 7964 7965
The director shall deposit <u>In accordance with section 5111.62 of the Revised Code</u>, all fines collected under this division <u>shall be deposited</u> into the <u>state treasury to the credit of the residents protection fund established by section 5111.62 of the Revised Code.</u>	7966 7967 7968 7969 7970
Sec. 5101.752 <u>173.43</u>. The department of job and family services <u>aging</u> shall certify registered nurses licensed under	7971 7972

~~Chapter 4723. of the Revised Code and social workers and~~ 7973
~~independent social workers licensed under Chapter 4757. of the~~ 7974
~~Revised Code~~ individuals who meet certification requirements 7975
established by rule to perform ~~assessments under~~ long-term care 7976
consultations for purposes of section 5101.75 or 5101.754 173.42 7977
of the Revised Code. The director of ~~job and family services~~ aging 7978
shall adopt rules in accordance with Chapter 119. of the Revised 7979
Code governing the certification process and requirements. The 7980
rules shall specify the education, experience, or training in 7981
~~geriatric~~ long-term care a person must have to qualify for 7982
certification. 7983

Sec. 173.44. (A) As used in this section, "nursing home" and 7984
"residential care facility" have the same meanings as in section 7985
3721.01 of the Revised Code. 7986

(B) The department of aging may conduct an annual survey of 7987
nursing homes and residential care facilities. The survey shall 7988
include questions about capacity, occupancy, and private pay 7989
charges. The department may contract with an outside entity to 7990
conduct the survey and analyze the results. The results of the 7991
survey and any analysis completed by the department or its 7992
designee shall be made available to the general assembly, other 7993
state agencies, nursing home and residential care facility 7994
providers, and the general public. 7995

(C) No nursing home or residential care facility shall 7996
recklessly fail to complete the survey. 7997

Sec. 173.45. As used in this section and in sections 173.46 7998
to 173.49 of the Revised Code: 7999

(A) "Long-term care facility" means any of the following: 8000

(1) A nursing home; 8001

(2) A residential care facility; 8002

(3) A county home or district home that has never been licensed as a residential care facility under Chapter 3721. of the Revised Code. 8003
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(B) "County home," "district home," "nursing home," and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 8006
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(C) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 8009
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Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to the effective date of this section under rules adopted under section 173.02 of the Revised Code. 8011
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(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility: 8021
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(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; 8025
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(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative; 8027
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(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; 8031
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(4) Any other information the department specifies in rules 8033
adopted under section 173.49 of the Revised Code. 8034

Sec. 173.47. (A) For purposes of publishing the Ohio 8035
long-term care consumer guide, the department of aging shall 8036
conduct or provide for the conduct of an annual customer 8037
satisfaction survey of each long-term care facility. The results 8038
of the surveys may include information obtained from long-term 8039
care facility residents, their families, or both. 8040

(B)(1) The department may charge fees for the conduct of 8041
annual customer satisfaction surveys. The department may contract 8042
with any person or government entity to collect the fees on its 8043
behalf. All fees collected under this section shall be deposited 8044
in accordance with section 173.48 of the Revised Code. 8045

(2) The fees charged under this section shall not exceed the 8046
following amounts: 8047

(a) Four hundred dollars for the customer satisfaction survey 8048
of a long-term care facility that is a nursing home or county home 8049
or district home operated in the same manner as a nursing home; 8050

(b) Three hundred dollars for the customer satisfaction 8051
survey pertaining to a long-term care facility that is a 8052
residential care facility or county home or district home not 8053
licensed as a residential care facility but operated in the same 8054
manner as a residential care facility. 8055

(3) Fees paid by a long-term care facility that is a nursing 8056
facility shall be reimbursed through the medicaid program operated 8057
under Chapter 5111. of the Revised Code. 8058

Sec. 173.48. There is hereby created in the state treasury 8059
the long-term care consumer guide fund. Money collected from the 8060
fees charged for the conduct of customer satisfaction surveys 8061

under section 173.47 of the Revised Code shall be credited to the 8062
fund. The department of aging shall use money in the fund for 8063
costs associated with publishing the Ohio long-term care consumer 8064
guide, including costs incurred in conducting or providing for the 8065
conduct of customer satisfaction surveys. 8066

Sec. 173.49. The department of aging shall adopt rules as the 8067
department considers necessary to implement and administer 8068
sections 173.45 to 173.48 of the Revised Code. The rules shall be 8069
adopted under Chapter 119. of the Revised Code. 8070

Sec. 173.50. Pursuant to a contract entered into with the 8071
department of job and family services as an interagency agreement 8072
under section 5111.91 of the Revised Code, the department of aging 8073
shall carry out the day-to-day administration of the component of 8074
the medicaid program established under Chapter 5111. of the 8075
Revised Code known as the program of all-inclusive care for the 8076
elderly or PACE. The department shall carry out its PACE 8077
administrative duties in accordance with the provisions of the 8078
interagency agreement and all applicable federal laws, including 8079
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, 8080
as amended. 8081

Sec. 183.28. The education technology trust fund is hereby 8082
created in the state treasury. Money credited to the fund shall be 8083
used to pay costs of the agency designated by the governor to 8084
assume the functions of the Ohio SchoolNet commission under 8085
section 3301.80 of the Revised Code. All investment earnings of 8086
the fund shall be credited to the fund. 8087

Sec. 307.88. (A) Bids submitted pursuant to sections 307.86 8088
to 307.92 of the Revised Code shall be in a form prescribed by the 8089

contracting authority and filed in a sealed envelope at the time 8090
and place mentioned in the ~~advertisement~~ notice. The bids received 8091
shall be opened and tabulated at the time stated in the notice. 8092
Each bid shall contain the full name of each person submitting the 8093
bid. ~~Except as otherwise provided in division (B) of this section,~~ 8094
~~if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and 8095
for a contract for the construction, demolition, alteration, 8096
repair, or reconstruction of an improvement, it shall meet the 8097
requirements of section 153.54 of the Revised Code. If the bid is 8098
in excess of ~~ten~~ twenty-five thousand dollars and for any other 8099
contract authorized by sections 307.86 to 307.92 of the Revised 8100
Code, it shall be accompanied by a bond or certified check, 8101
cashier's check, or money order on a solvent bank or savings and 8102
loan association in a reasonable amount stated in the 8103
~~advertisement~~ notice but not to exceed five per cent of the bid, 8104
conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is 8105
accepted, shall execute a contract in conformity to the invitation 8106
and ~~his~~ the bid. 8107

(B) The board of county commissioners ~~may~~, by a unanimous 8108
vote of the entire board, may permit a contracting authority to 8109
exempt a bid from any or all of the requirements of section 153.54 8110
of the Revised Code if the estimated cost is ~~less than~~ twenty-five 8111
thousand dollars or less. If the board exempts a bid from any but 8112
not all of ~~these~~ those requirements, the bid notice published in 8113
the newspaper pursuant to section 307.87 of the Revised Code shall 8114
state the specific bid guaranty requirements that apply. If the 8115
board exempts a bid from all requirements of section 153.54 of the 8116
Revised Code, the notice shall state that none of the requirements 8117
of that section apply. 8118

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 8119
of this section, the county recorder shall keep six separate sets 8120
of records as follows: 8121

(1) A record of deeds, in which shall be recorded all deeds 8122
and other instruments of writing for the absolute and 8123
unconditional sale or conveyance of lands, tenements, and 8124
hereditaments; all notices as provided in sections 5301.47 to 8125
5301.56 of the Revised Code; all judgments or decrees in actions 8126
brought under section 5303.01 of the Revised Code; all 8127
declarations and bylaws, and all amendments to declarations and 8128
bylaws, as provided in Chapter 5311. of the Revised Code; 8129
affidavits as provided in section 5301.252 of the Revised Code; 8130
all certificates as provided in section 5311.17 of the Revised 8131
Code; all articles dedicating archaeological preserves accepted by 8132
the director of the Ohio historical society under section 149.52 8133
of the Revised Code; all articles dedicating nature preserves 8134
accepted by the director of natural resources under section 8135
1517.05 of the Revised Code; all agreements for the registration 8136
of lands as archaeological or historic landmarks under section 8137
149.51 or 149.55 of the Revised Code; all conveyances of 8138
conservation easements and agricultural easements under section 8139
5301.68 of the Revised Code; all instruments extinguishing 8140
agricultural easements under section 901.21 or 5301.691 of the 8141
Revised Code or pursuant to terms of such an easement granted to a 8142
charitable organization under section 5301.68 of the Revised Code; 8143
all instruments or orders described in division (B)(1)(c)(ii) of 8144
section 5301.56 of the Revised Code; all no further action letters 8145
issued under section 122.654 or 3746.11 of the Revised Code; all 8146
covenants not to sue issued under section 3746.12 of the Revised 8147
Code, including all covenants not to sue issued pursuant to 8148
section 122.654 of the Revised Code; any restrictions on the use 8149
of property contained in a no further action letter issued under 8150
section 122.654 of the Revised Code, any restrictions on the use 8151
of property identified pursuant to division (C)(3)(a) of section 8152
3746.10 of the Revised Code, and any restrictions on the use of 8153
property contained in a deed or other instrument as provided in 8154

division (E) or (F) of section 3737.882 of the Revised Code; any	8155
easement executed or granted under section 3734.22, 3734.24,	8156
3734.25, or 3734.26 of the Revised Code; any environmental	8157
covenant entered into in accordance with sections 5301.80 to	8158
5301.92 of the Revised Code; all memoranda of trust, as described	8159
in division (A) of section 5301.255 of the Revised Code, that	8160
describe specific real property; and all agreements entered into	8161
under division (A) of section 1521.26 of the Revised Code;	8162
(2) A record of mortgages, in which shall be recorded all of	8163
the following:	8164
(a) All mortgages, including amendments, supplements,	8165
modifications, and extensions of mortgages, or other instruments	8166
of writing by which lands, tenements, or hereditaments are or may	8167
be mortgaged or otherwise conditionally sold, conveyed, affected,	8168
or encumbered;	8169
(b) All executory installment contracts for the sale of land	8170
executed after September 29, 1961, that by their terms are not	8171
required to be fully performed by one or more of the parties to	8172
them within one year of the date of the contracts;	8173
(c) All options to purchase real estate, including	8174
supplements, modifications, and amendments of the options, but no	8175
option of that nature shall be recorded if it does not state a	8176
specific day and year of expiration of its validity;	8177
(d) Any tax certificate sold under section 5721.33 of the	8178
Revised Code, or memorandum of it, that is presented for filing of	8179
record.	8180
(3) A record of powers of attorney, including all memoranda	8181
of trust, as described in division (A) of section 5301.255 of the	8182
Revised Code, that do not describe specific real property;	8183
(4) A record of plats, in which shall be recorded all plats	8184

and maps of town lots, of the subdivision of town lots, and of
other divisions or surveys of lands, any center line survey of a
highway located within the county, the plat of which shall be
furnished by the director of transportation or county engineer,
and all drawings and amendments to drawings, as provided in
Chapter 5311. of the Revised Code;

(5) A record of leases, in which shall be recorded all
leases, memoranda of leases, and supplements, modifications, and
amendments of leases and memoranda of leases;

(6) A record of declarations executed pursuant to section
2133.02 of the Revised Code and durable powers of attorney for
health care executed pursuant to section 1337.12 of the Revised
Code.

(B) All instruments or memoranda of instruments entitled to
record shall be recorded in the proper record in the order in
which they are presented for record. The recorder may index, keep,
and record in one volume unemployment compensation liens, internal
revenue tax liens and other liens in favor of the United States as
described in division (A) of section 317.09 of the Revised Code,
personal tax liens, mechanic's liens, agricultural product liens,
notices of liens, certificates of satisfaction or partial release
of estate tax liens, discharges of recognizances, excise and
franchise tax liens on corporations, broker's liens, and liens
provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.021~~
5111.022, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including
any supplement, modification, and amendment of the option, under
this section shall serve as notice to any purchaser of an interest
in the real estate covered by the option only during the period of
the validity of the option as stated in the option.

(C) In lieu of keeping the six separate sets of records

required in divisions (A)(1) to (6) of this section and the 8216
records required in division (D) of this section, a county 8217
recorder may record all the instruments required to be recorded by 8218
this section in two separate sets of record books. One set shall 8219
be called the "official records" and shall contain the instruments 8220
listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 8221
section. The second set of records shall contain the instruments 8222
listed in division (A)(4) of this section. 8223

(D) Except as provided in division (C) of this section, the 8224
county recorder shall keep a separate set of records containing 8225
all corrupt activity lien notices filed with the recorder pursuant 8226
to section 2923.36 of the Revised Code and a separate set of 8227
records containing all medicaid fraud lien notices filed with the 8228
recorder pursuant to section 2933.75 of the Revised Code. 8229

Sec. 317.36. (A) The county recorder shall collect the low- 8230
and moderate-income housing trust fund fee as specified in 8231
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 8232
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 8233
6101.09, and 6115.09 of the Revised Code. The amount of any 8234
housing trust fund fee the recorder is authorized to collect is 8235
equal to the amount of any base fee the recorder is authorized to 8236
collect for services. The housing trust fund fee shall be 8237
collected in addition to the base fee. 8238

(B) The recorder shall certify the amounts collected as 8239
housing trust fund fees pursuant to division (A) of this section 8240
into the county treasury as housing trust fund fees to be paid to 8241
the treasurer of state pursuant to section 319.63 of the Revised 8242
Code. 8243

Sec. 319.20. After complying with sections 319.202, 315.251, 8244
and 319.203 of the Revised Code, and on application and 8245

presentation of title, with the affidavits required by law, or the 8246
proper order of a court, bearing the last known address of the 8247
grantee, or of any one of the grantees named in the title, and a 8248
reference to the volume and page of the recording of the next 8249
preceding recorded instrument by or through which the grantor 8250
claims title, the county auditor shall transfer any land or town 8251
lot or part thereof, minerals therein, or mineral rights thereto, 8252
charged with taxes on the tax list, from the name in which it 8253
stands into the name of the owner, when rendered necessary by a 8254
conveyance, partition, devise, descent, or otherwise. If by reason 8255
of the conveyance or otherwise, a part only of a tract or lot, 8256
minerals therein, or mineral rights thereto, as charged in the tax 8257
list, is to be transferred, the auditor shall determine the tax 8258
value of the part of a tract or lot of real estate, minerals 8259
therein, or mineral rights thereto, so transferred, and the value 8260
of the remaining part compared with the value of the whole. 8261

Whenever a part only of a tract or lot of real estate has 8262
been transferred by the auditor and ~~such~~ the tract or lot bears 8263
unpaid taxes, penalties, interest, or special assessments, the 8264
unpaid taxes, penalties, interest, or special assessments shall 8265
immediately be apportioned, upon demand or request by the 8266
transferee or remaining owner, in the following manner: 8267

(A) The auditor shall allocate to the part so transferred, 8268
and to the remaining part, amounts of any current or delinquent 8269
taxes, interest, or penalties that have accrued against the parcel 8270
as a whole, proportionate to their respective values. 8271

(B) The lien of taxes, penalties, interest, and special 8272
assessments, as levied against the original tract, shall extend to 8273
the part so transferred and the part remaining only to the extent 8274
of the amounts so allocated to the respective parts. 8275

This section does not change the total amount of taxes, 8276
special assessments, or other charges as originally levied, or the 8277

total amount of the balance due. The auditor shall certify such 8278
apportionments to the county treasurer. 8279

Whenever the state acquires an entire parcel or a part only 8280
of a parcel of real property in fee simple, the county auditor, 8281
upon application of the grantor or property owner or the state, 8282
which application shall contain a description of the property as 8283
it appears on the tax list and the date of transfer of ownership, 8284
shall prepare an estimate of the taxes that are a lien on ~~said~~ the 8285
property, but have not been determined, assessed, and levied for 8286
the year in which the property was acquired. The county auditor 8287
shall thereupon apportion ~~such~~ the estimated taxes proportionately 8288
between the grantor and the state for the period of the lien year 8289
that each had or shall have had ownership or possession of the 8290
property, whichever is earlier. The county treasurer shall accept 8291
payment from the state for estimated taxes at the time that the 8292
real property is acquired. If the state has paid in full in the 8293
year in which the property is acquired that proportion of the 8294
estimated taxes that the tax commissioner determines are not 8295
subject to remission by the county auditor for such year under 8296
division (C) of section 5713.08 of the Revised Code, the estimated 8297
taxes paid shall be considered the tax liability on the exempted 8298
property for that year. 8299

Section 319.42 of the Revised Code applies to the 8300
apportionment of special assessments. 8301

Complaint against such values as determined by the auditor or 8302
the allocation of assessments by the certifying authority may be 8303
filed by the transferee or the remaining owner, and if filed, 8304
proceedings including appeals shall be had in the manner and 8305
within the time provided by sections 5717.01 to 5717.06 and 8306
5715.19 to 5715.22 of the Revised Code, for complaints against 8307
valuation or assessment of real property. 8308

The auditor shall endorse on the deed or other evidences of title presented to the auditor that the proper transfer of the real estate described in ~~such~~ the deed has been made in the auditor's office or that it is not entered for taxation, and sign the auditor's name to ~~such~~ the deed. The address of the grantee, or any one of the grantees, set forth in the deed or other evidences of title shall be entered by the auditor on the transfer sheets and on the general tax list of real property prepared pursuant to section 319.28 of the Revised Code.

Sec. 319.301. (A) This section does not apply to any of the following:

(1) Taxes levied at whatever rate is required to produce a specified amount of tax money or an amount to pay debt charges;

(2) Taxes levied within the one per cent limitation imposed by Section 2 of Article XII, Ohio Constitution, except as otherwise provided in division (F) of this section;

(3) Taxes provided for by the charter of a municipal corporation.

(B) As used in this section:

(1) "Real property" includes real property owned by a railroad.

(2) "Carryover property" means all real property on the current year's tax list except:

(a) Land and improvements that were not taxed by the district in both the preceding year and the current year;

(b) Land and improvements that were not in the same class in both the preceding year and the current year.

(3) "Effective tax rate" means with respect to each class of property:

(a) The sum of the total taxes that would have been charged 8338
and payable for current expenses against real property in that 8339
class if each of the district's taxes were reduced for the current 8340
year under division (D)(1) of this section without regard to the 8341
application of division (E)(3) of this section divided by 8342

(b) The taxable value of all real property in that class. 8343

(4) "Taxes charged and payable" means the taxes charged and 8344
payable prior to any reduction required by section 319.302 of the 8345
Revised Code. 8346

(C) The tax commissioner shall make the determinations 8347
required by this section each year, without regard to whether a 8348
taxing district has territory in a county to which section 5715.24 8349
of the Revised Code applies for that year. Separate determinations 8350
shall be made for each of the two classes established pursuant to 8351
section 5713.041 of the Revised Code. 8352

(D) With respect to each tax authorized to be levied by each 8353
taxing district, the tax commissioner, annually, shall do both of 8354
the following: 8355

(1) Determine by what percentage, if any, the sums levied by 8356
such tax against the carryover property in each class would have 8357
to be reduced for the tax to levy the same number of dollars 8358
against such property in that class in the current year as were 8359
charged against such property by such tax in the preceding year 8360
subsequent to the reduction made under this section but before the 8361
reduction made under section 319.302 of the Revised Code. In the 8362
case of a tax levied for the first time that is not a renewal of 8363
an existing tax, the commissioner shall determine by what 8364
percentage the sums that would otherwise be levied by such tax 8365
against carryover property in each class would have to be reduced 8366
to equal the amount that would have been levied if the full rate 8367
thereof had been imposed against the total taxable value of such 8368

property in the preceding tax year. A tax or portion of a tax that
is designated a replacement levy under section 5705.192 of the
Revised Code is not a renewal of an existing tax for purposes of
this division.

(2) Certify each percentage determined in division (D)(1) of
this section, as adjusted under division (E) of this section, and
the class of property to which that percentage applies to the
auditor of each county in which the district has territory. The
auditor, after complying with section 319.30 of the Revised Code,
shall reduce the sum to be levied by such tax against each parcel
of real property in the district by the percentage so certified
for its class. Certification shall be made by the first day of
September except in the case of a tax levied for the first time,
in which case certification shall be made within fifteen days of
the date the county auditor submits the information necessary to
make the required determination.

(E)(1) As used in division (E)(2) of this section, "pre-1982
joint vocational taxes" means, with respect to a class of
property, the difference between the following amounts:

(a) The taxes charged and payable in tax year 1981 against
the property in that class for the current expenses of the joint
vocational school district of which the school district is a part
after making all reductions under this section;

(b) The following percentage of the taxable value of all real
property in that class:

(i) In 1987, five one-hundredths of one per cent;

(ii) In 1988, one-tenth of one per cent;

(iii) In 1989, fifteen one-hundredths of one per cent;

(iv) In 1990 and each subsequent year, two-tenths of one per
cent.

If the amount in division (E)(1)(b) of this section exceeds 8399
the amount in division (E)(1)(a) of this section, the pre-1982 8400
joint vocational taxes shall be zero. 8401

As used in divisions (E)(2) and (3) of this section, "taxes 8402
charged and payable" has the same meaning as in division (B)(4) of 8403
this section, and excludes any tax charged and payable in 1985 or 8404
thereafter under sections 5705.194 to 5705.197 or section 5705.213 8405
or 5705.219 of the Revised Code. 8406

(2) If in the case of a school district other than a joint 8407
vocational or cooperative education school district any percentage 8408
required to be used in division (D)(2) of this section for either 8409
class of property could cause the total taxes charged and payable 8410
for current expenses to be less than two per cent of the taxable 8411
value of all real property in that class that is subject to 8412
taxation by the district, the commissioner shall determine what 8413
percentages would cause the district's total taxes charged and 8414
payable for current expenses against that class, after all 8415
reductions that would otherwise be made under this section, to 8416
equal, when combined with the pre-1982 joint vocational taxes 8417
against that class, the lesser of the following: 8418

(a) The sum of the rates at which those taxes are authorized 8419
to be levied; 8420

(b) Two per cent of the taxable value of the property in that 8421
class. The auditor shall use such percentages in making the 8422
reduction required by this section for that class. 8423

(3)(a) If in the case of a joint vocational school district 8424
any percentage required to be used in division (D)(2) of this 8425
section for either class of property could cause the total taxes 8426
charged and payable for current expenses for that class to be less 8427
than the designated amount, the commissioner shall determine what 8428
percentages would cause the district's total taxes charged and 8429

payable for current expenses for that class, after all reductions 8430
that would otherwise be made under this section, to equal the 8431
designated amount. The auditor shall use such percentages in 8432
making the reductions required by this section for that class. 8433

(b) As used in division (E)(3)(a) of this section, the 8434
designated amount shall equal the taxable value of all real 8435
property in the class that is subject to taxation by the district 8436
times the lesser of the following: 8437

(i) Two-tenths of one per cent; 8438

(ii) The district's effective rate plus the following 8439
percentage for the year indicated: 8440

WHEN COMPUTING THE 8441

TAXES CHARGED FOR ADD THE FOLLOWING PERCENTAGE: 8442

1987	0.025%	8443
1988	0.05%	8444
1989	0.075%	8445
1990	0.1%	8446
1991	0.125%	8447
1992	0.15%	8448
1993	0.175%	8449
1994 and thereafter	0.2%	8450

(F) As used in this division, "specified percentage" means 8451
the percentage specified in a resolution under division (A)(2) of 8452
section 5705.219 of the Revised Code, plus one hundred per cent. 8453

With respect to each tax authorized to be levied by a school 8454
district under section 5705.219 of the Revised Code, the tax 8455
commissioner, annually, shall do both of the following: 8456

(1) Determine by what percentage, if any, the sums levied by 8457
such tax against the carryover property in each class would have 8458
to be reduced for the tax to levy the specified percentage of the 8459
number of dollars against such property in that class in the 8460

current year as were charged against such property by such tax in 8461
the preceding year subsequent to the reduction made under this 8462
division but before the reduction made under section 319.302 of 8463
the Revised Code. 8464

If the sums that otherwise would be levied by the tax against 8465
the carryover property in a class in the current year do not 8466
exceed the specified percentage of the sums charged against such 8467
property in that class in the preceding year subsequent to the 8468
reduction under this division but before the reduction made under 8469
section 319.302 of the Revised Code, no reduction shall be made 8470
under this division for the current year. In the case of a tax 8471
levied for the first time that is not a renewal of an existing 8472
tax, the commissioner shall determine by what percentage the sums 8473
that otherwise would be levied by such tax against carryover 8474
property in each class would have to be reduced to equal the 8475
specified percentage of the amount that would have been levied if 8476
the full rate thereof had been imposed against the total taxable 8477
value of such property in the preceding tax year. A tax or portion 8478
of a tax levied under section 5705.219 of the Revised Code that is 8479
designated a replacement levy is not a renewal of an existing tax 8480
for the purposes of this division. 8481

(2) Certify each percentage determined in division (F)(1) of 8482
this section and the class of property to which that percentage 8483
applies to the county auditor of each county in which the district 8484
has territory. The county auditor, after complying with section 8485
319.30 of the Revised Code, shall reduce the sum to be levied by 8486
such tax against each parcel of real property in the district by 8487
the percentage so certified for its class. Certification shall be 8488
made by the first day of September except in the case of a tax 8489
levied for the first time, in which case certification shall be 8490
made within fifteen days of the date the county auditor submits 8491
the information necessary to make the required determination. 8492

(G) No reduction shall be made under this section in the rate 8493
at which any tax is levied. 8494

~~(G)~~(H) The commissioner may order a county auditor to furnish 8495
any information ~~he~~ the commissioner needs to make the 8496
determinations required under division (D) ~~or~~ (E), or (F) of this 8497
section, and the auditor shall supply the information in the form 8498
and by the date specified in the order. If the auditor fails to 8499
comply with an order issued under this division, except for good 8500
cause as determined by the commissioner, the commissioner shall 8501
withhold from such county or taxing district therein fifty per 8502
cent of state revenues to local governments pursuant to section 8503
5747.50 of the Revised Code or shall direct the department of 8504
education to withhold therefrom fifty per cent of state revenues 8505
to school districts pursuant to Chapter 3317. of the Revised Code. 8506
The commissioner shall withhold the distribution of such revenues 8507
until the county auditor has complied with this division, and the 8508
department shall withhold the distribution of such revenues until 8509
the commissioner has notified the department that the county 8510
auditor has complied with this division. 8511

~~(H)~~(I) If the commissioner is unable to certify a tax 8512
reduction factor for either class of property in a taxing district 8513
located in more than one county by the last day of November 8514
because information required under division ~~(G)~~(H) of this section 8515
is unavailable, ~~he~~ the commissioner may compute and certify an 8516
estimated tax reduction factor for that district for that class. 8517
The estimated factor shall be based upon an estimate of the 8518
unavailable information. Upon receipt of the actual information 8519
for a taxing district that received an estimated tax reduction 8520
factor, the commissioner shall compute the actual tax reduction 8521
factor and use that factor to compute the taxes that should have 8522
been charged and payable against each parcel of property for the 8523
year for which the estimated reduction factor was used. The amount 8524

by which the estimated factor resulted in an overpayment or 8525
underpayment in taxes on any parcel shall be added to or 8526
subtracted from the amount due on that parcel in the ensuing tax 8527
year. 8528

A percentage or a tax reduction factor determined or computed 8529
by the commissioner under this section shall be used solely for 8530
the purpose of reducing the sums to be levied by the tax to which 8531
it applies for the year for which it was determined or computed. 8532
It shall not be used in making any tax computations for any 8533
ensuing tax year. 8534

~~(I)~~(J) In making the determinations under division (D)(1) or 8535
(F)(1) of this section, the tax commissioner shall take account of 8536
changes in the taxable value of carryover property resulting from 8537
complaints filed under section 5715.19 of the Revised Code for 8538
determinations made for the tax year in which such changes are 8539
reported to the commissioner. Such changes shall be reported to 8540
the commissioner on the first abstract of real property filed with 8541
the commissioner under section 5715.23 of the Revised Code 8542
following the date on which the complaint is finally determined by 8543
the board of revision or by a court or other authority with 8544
jurisdiction on appeal. The tax commissioner shall account for 8545
such changes in making the determinations only for the tax year in 8546
which the change in valuation is reported. Such a valuation change 8547
shall not be used to recompute the percentages determined under 8548
division (D)(1) or (F)(1) of this section for any prior tax year. 8549

Sec. 319.302. (A)(1) The county auditor shall classify each 8550
parcel of real property as qualifying property or nonqualifying 8551
property, according to its principal, current use. Vacant lots and 8552
tracts of land upon which there are no structures or improvements 8553
shall be classified in accordance with their location and their 8554
highest and best probable legal use. For purposes of this section, 8555

lands and improvements thereon used for residential or 8556
agricultural purposes shall be classified as qualifying property, 8557
and all other lands and improvements thereon and minerals or 8558
rights to minerals shall be classified as nonqualifying property. 8559

(2) Each year, the county auditor shall reclassify each 8560
parcel of real property whose principal, current use has changed 8561
from the preceding year to reflect the use of the property as of 8562
the first day of January of the current tax year. 8563

(B) After complying with section 319.301 of the Revised Code, 8564
the county auditor shall reduce the remaining sums to be levied 8565
against each parcel of real property listed on the general tax 8566
list and duplicate of real and public utility property for the 8567
current tax year and classified for that tax year as qualifying 8568
property under division (A) of this section, and against each 8569
manufactured and mobile home that is taxed pursuant to division 8570
(D)(2) of section 4503.06 of the Revised Code and that is on the 8571
manufactured home tax list for the current tax year, by ten per 8572
cent, to provide a partial exemption for that property or such 8573
home. Except as otherwise provided in sections 323.152, 323.158, 8574
505.06, and 715.263 of the Revised Code, the amount of the taxes 8575
remaining after such reduction, if any, shall be the real and 8576
public utility property taxes charged and payable on each parcel 8577
of real property, including nonqualifying property, and the 8578
manufactured home tax charged and payable, ~~on each property~~ 8579
manufactured or mobile home, and shall be the amounts certified to 8580
the county treasurer for collection. Upon receipt of the tax 8581
duplicate, the treasurer shall certify to the tax commissioner the 8582
total amount by which taxes were reduced under this section, as 8583
shown on the duplicate. Such reduction shall not directly or 8584
indirectly affect the determination of the principal amount of 8585
notes that may be issued in anticipation of any tax levies or the 8586
amount of bonds or notes for any planned improvements. If after 8587

application of sections 5705.31 and 5705.32 of the Revised Code 8588
and other applicable provisions of law, including divisions (F) 8589
and (I) of section 321.24 of the Revised Code, there would be 8590
insufficient funds for payment of debt charges on bonds or notes 8591
payable from taxes reduced by this section, the reduction of taxes 8592
provided for in this section shall be adjusted to the extent 8593
necessary to provide funds from such taxes. 8594

(C) The tax commissioner shall adopt rules governing the 8595
classification of property under this section, and no property 8596
shall be classified under this section except in accordance with 8597
those rules. 8598

(D) The classification required by division (A) of this 8599
section is solely for the purpose of allowing the partial 8600
exemption for qualifying property under division (B) of this 8601
section. This section does not apply to classifying real property 8602
for any other purpose authorized or required by law, or by rule of 8603
the tax commissioner. 8604

Sec. 319.54. (A) On all moneys collected by the county 8605
treasurer on any tax duplicate of the county, other than estate 8606
tax duplicates, and on all moneys received as advance payments of 8607
personal property and classified property taxes, the county 8608
auditor, on settlement with the treasurer and tax commissioner, on 8609
or before the date prescribed by law for such settlement or any 8610
lawful extension of such date, shall be allowed as compensation 8611
for the county auditor's services the following percentages: 8612

(1) On the first one hundred thousand dollars, two and 8613
one-half per cent; 8614

(2) On the next two million dollars, eight thousand three 8615
hundred eighteen ten-thousandths of one per cent; 8616

(3) On the next two million dollars, six thousand six hundred 8617

fifty-five ten-thousandths of one per cent; 8618

(4) On all further sums, one thousand six hundred sixty-three 8619
ten-thousandths of one per cent. 8620

If any settlement is not made on or before the date 8621
prescribed by law for such settlement or any lawful extension of 8622
such date, the aggregate compensation allowed to the auditor shall 8623
be reduced one per cent for each day such settlement is delayed 8624
after the prescribed date. No penalty shall apply if the auditor 8625
and treasurer grant all requests for advances up to ninety per 8626
cent of the settlement pursuant to section 321.34 of the Revised 8627
Code. The compensation allowed in accordance with this section on 8628
settlements made before the dates prescribed by law, or the 8629
reduced compensation allowed in accordance with this section on 8630
settlements made after the date prescribed by law or any lawful 8631
extension of such date, shall be apportioned ratably by the 8632
auditor and deducted from the shares or portions of the revenue 8633
payable to the state as well as to the county, townships, 8634
municipal corporations, and school districts. 8635

(B) From all moneys collected by the county treasurer on any 8636
tax duplicate of the county, other than estate tax duplicates, and 8637
on all moneys received as advance payments of personal property 8638
and classified property taxes, there shall be paid into the county 8639
treasury to the credit of the real estate assessment fund created 8640
by section 325.31 of the Revised Code, an amount to be determined 8641
by the county auditor, which shall not exceed the following 8642
percentages: 8643

(1) On the first one hundred thousand dollars, three and 8644
one-half per cent; 8645

(2) On the next three million dollars, one and three-eighths 8646
per cent; 8647

(3) On the next three million dollars, one per cent; 8648

(4) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent; 8649
8650

(5) On amounts exceeding one hundred fifty million dollars, six-tenths of one per cent. 8651
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Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts. 8653
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(C) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate. 8657
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(D) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages: 8661
8662
8663
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8665

(1) Four per cent on the first one hundred thousand dollars; 8666

(2) One-half of one per cent on all additional sums. 8667

Such percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county. 8668
8669
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(E) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county. 8671
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(F) The county auditor shall charge and receive fees as 8678

follows:	8679
(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;	8680 8681
(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;	8682 8683 8684 8685 8686
(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten <u>twenty</u> cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:	8687 8688 8689 8690 8691 8692 8693 8694
(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;	8695 8696 8697
(b) Solely in order to provide or release security for a debt or obligation;	8698 8699
(c) To confirm or correct a deed previously executed and recorded;	8700 8701
(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;	8702 8703 8704
(e) On sale for delinquent taxes or assessments;	8705
(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;	8706 8707 8708

(g) Pursuant to a reorganization of corporations or 8709
unincorporated associations or pursuant to the dissolution of a 8710
corporation, to the extent that the corporation conveys the 8711
property to a stockholder as a distribution in kind of the 8712
corporation's assets in exchange for the stockholder's shares in 8713
the dissolved corporation; 8714

(h) By a subsidiary corporation to its parent corporation for 8715
no consideration, nominal consideration, or in sole consideration 8716
of the cancellation or surrender of the subsidiary's stock; 8717

(i) By lease, whether or not it extends to mineral or mineral 8718
rights, unless the lease is for a term of years renewable forever; 8719

(j) When the value of the real property or the manufactured 8720
or mobile home or the value of the interest that is conveyed does 8721
not exceed one hundred dollars; 8722

(k) Of an occupied residential property, including a 8723
manufactured or mobile home, being transferred to the builder of a 8724
new residence or to the dealer of a new manufactured or mobile 8725
home when the former residence is traded as part of the 8726
consideration for the new residence or new manufactured or mobile 8727
home; 8728

(l) To a grantee, other than a dealer in real property or in 8729
manufactured or mobile homes, solely for the purpose of, and as a 8730
step in, the prompt sale of the real property or manufactured or 8731
mobile home to others; 8732

(m) To or from a person when no money or other valuable and 8733
tangible consideration readily convertible into money is paid or 8734
to be paid for the real estate or manufactured or mobile home and 8735
the transaction is not a gift; 8736

(n) Pursuant to division (B) of section 317.22 of the Revised 8737
Code, or section 2113.61 of the Revised Code, between spouses or 8738

to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;

(o) To a trustee acting on behalf of minor children of the deceased;

(p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;

(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;

(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;

(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;

(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;

(u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets;

(v) To the beneficiaries of a trust, if the fee was paid on the transfer from the grantor of the trust to the trustee or if the transfer is made pursuant to trust provisions ~~which~~ that

became irrevocable at the death of the grantor; 8769

(w) To a corporation for incorporation into a sports facility 8770
constructed pursuant to section 307.696 of the Revised Code; 8771

(x) Between persons pursuant to section 5302.18 of the 8772
Revised Code. 8773

The auditor shall compute and collect the fee. The auditor 8774
shall maintain a numbered receipt system, as prescribed by the tax 8775
commissioner, and use such receipt system to provide a receipt to 8776
each person paying a fee. The auditor shall deposit the receipts 8777
of the fees on conveyances in the county treasury daily to the 8778
credit of the general fund of the county, except as provided in 8779
division (G) of this section. 8780

~~The real property transfer fee provided for in division 8781
(F)(3) of this section shall be applicable to any conveyance of 8782
real property presented to the auditor on or after January 1, 8783
1968, regardless of its time of execution or delivery.~~ 8784

The transfer fee for a used manufactured home or used mobile 8785
home shall be computed by and paid to the county auditor of the 8786
county in which the home is located immediately prior to the 8787
transfer. 8788

(G) For each fee charged under division (F)(3) of this 8789
section, the county auditor shall deposit the greater of one 8790
dollar or one-half of the fee in the county treasury to the credit 8791
of the general fund of the county. By the fifteenth day of the 8792
month following the month in which the fee was received, the 8793
county auditor shall forward the balance of the fee to the 8794
treasurer of state for deposit in the state treasury to the credit 8795
of the general revenue fund. The county auditor shall include with 8796
each balance forwarded to the treasurer of state under this 8797
division a report in such form as the tax commissioner prescribes. 8798
Upon receipt of the report, the treasurer of state shall date 8799

stamp the report and forward it to the tax commissioner. If the 8800
county auditor fails to forward any balance within the time 8801
required by this division, the tax commissioner may withhold local 8802
government fund money allocated to the county until the balance is 8803
forwarded. The treasurer of state may require that the county 8804
auditor forward electronically any balances due under, and reports 8805
required by, this division. 8806

(H) The combined rate of taxation authorized under division 8807
(F)(3) of this section and section 322.02 of the Revised Code 8808
shall never exceed fifty cents for each one hundred dollars or 8809
fraction of one hundred dollars of the value of the real property 8810
transferred. 8811

Sec. 321.24. (A) On or before the fifteenth day of February, 8812
in each year, the county treasurer shall settle with the county 8813
auditor for all taxes and assessments that the treasurer has 8814
collected on the general duplicate of real and public utility 8815
property at the time of making the settlement. 8816

(B) On or before the thirtieth day of June, in each year, the 8817
treasurer shall settle with the auditor for all advance payments 8818
of general personal and classified property taxes that the 8819
treasurer has received at the time of making the settlement. 8820

(C) On or before the tenth day of August, in each year, the 8821
treasurer shall settle with the auditor for all taxes and 8822
assessments that the treasurer has collected on the general 8823
duplicates of real and public utility property at the time of 8824
making such settlement, not included in the preceding February 8825
settlement. 8826

(D) On or before the thirty-first day of October, in each 8827
year, the treasurer shall settle with the auditor for all taxes 8828
that the treasurer has collected on the general personal and 8829

classified property duplicates, and for all advance payments of 8830
general personal and classified property taxes, not included in 8831
the preceding June settlement, that the treasurer has received at 8832
the time of making such settlement. 8833

(E) In the event the time for the payment of taxes is 8834
extended, pursuant to section 323.17 of the Revised Code, the date 8835
on or before which settlement for the taxes so extended must be 8836
made, as herein prescribed, shall be deemed to be extended for a 8837
like period of time. At each such settlement, the auditor shall 8838
allow to the treasurer, on the moneys received or collected and 8839
accounted for by the treasurer, the treasurer's fees, at the rate 8840
or percentage allowed by law, at a full settlement of the 8841
treasurer. 8842

(F) Within thirty days after the day of each settlement of 8843
taxes required under divisions (A) and (C) of this section, the 8844
treasurer shall certify to the tax commissioner any adjustments 8845
~~which~~ that have been made to the amount certified previously 8846
pursuant to section 319.302 of the Revised Code and that the 8847
settlement has been completed. Upon receipt of such certification, 8848
the commissioner shall provide for payment to the county treasurer 8849
from the general revenue fund of an amount equal to one-half of 8850
the amount certified by the treasurer in the preceding tax year 8851
under section 319.302 of the Revised Code, less one-half of the 8852
amount computed for all taxing districts in that county for the 8853
current fiscal year under section 5703.80 of the Revised Code for 8854
crediting to the property tax administration fund. Such payment 8855
shall be credited upon receipt to the county's undivided income 8856
tax fund, and the county auditor shall transfer to the county 8857
general fund from the amount thereof the total amount of all fees 8858
and charges which the auditor and treasurer would have been 8859
authorized to receive had such section not been in effect and that 8860
amount had been levied and collected as taxes. The county auditor 8861

shall distribute the amount remaining among the various taxing 8862
districts in the county as if it had been levied, collected, and 8863
settled as real property taxes. The amount distributed to each 8864
taxing district shall be reduced by the total of the amounts 8865
computed for the district under ~~divisions (A), (B), and (C)~~ of 8866
section 5703.80 of the Revised Code, but the reduction shall not 8867
exceed the amount that otherwise would be distributed to the 8868
taxing district under this division. The tax commissioner shall 8869
make available to taxing districts such information as is 8870
sufficient for a taxing district to be able to determine the 8871
amount of the reduction in its distribution under this section. 8872

(G)(1) Within thirty days after the day of the settlement 8873
required in division (D) of this section, the county treasurer 8874
shall notify the tax commissioner that the settlement has been 8875
completed. Upon receipt of that notification, the commissioner 8876
shall provide for payment to the county treasurer from the general 8877
revenue fund of an amount equal to the amount certified under 8878
former section 319.311 of the Revised Code and paid in the state's 8879
fiscal year 2003 multiplied by the percentage specified in 8880
division (G)(2) of this section. The payment shall be credited 8881
upon receipt to the county's undivided income tax fund, and the 8882
county auditor shall distribute the amount thereof among the 8883
various taxing districts of the county as if it had been levied, 8884
collected, and settled as personal property taxes. The amount 8885
received by a taxing district under this division shall be 8886
apportioned among its funds in the same proportion as the current 8887
year's personal 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~~ sixty-four per cent; 8895
- (d) In fiscal year 2007, ~~sixty~~ forty per cent; 8896
- (e) In fiscal year 2008, ~~fifty~~ thirty-two per cent; 8897
- (f) In fiscal year 2009, ~~forty~~ sixteen per cent; 8898
- ~~(g) In fiscal year 2010, thirty per cent; 8899~~
- ~~(h) In fiscal year 2011, twenty per cent; 8900~~
- ~~(i) In fiscal year 2012, ten per cent. 8901~~

After fiscal year ~~2012~~ 2009, no payments shall be made under 8902
division (G)(1) of this section. 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

(I) Within thirty days after the day of each settlement of 8918
taxes required under division (H) of this section, the county 8919
treasurer shall certify to the tax commissioner any adjustments 8920
that have been made to the amount certified previously pursuant to 8921
section 319.302 of the Revised Code and that the settlement has 8922

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 current tax year
under section 319.302 of the Revised Code. 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
that 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
manufactured home taxes.

Sec. 323.01. Except as otherwise provided, as used in Chapter
323. of the Revised Code:

(A) "Subdivision" means any county, township, school
district, or municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an
entry appearing on a tax list and the duplicate thereof that was
prepared and certified in accordance with section 319.28 of the
Revised Code, including taxes levied against real estate; taxes on
property whose value is certified pursuant to section 5727.23 of
the Revised Code; recoupment charges applied pursuant to section
5713.35 of the Revised Code; all assessments; penalties and
interest charged pursuant to section 323.121 of the Revised Code;
charges added pursuant to section 319.35 of the Revised Code; and
all of such charges which remain unpaid from any previous tax
year.

(D) "Current taxes" means all taxes charged against an entry 8953
on the general tax list and duplicate of real and public utility 8954
property that have not appeared on such list and duplicate for any 8955
prior tax year and any penalty thereon charged by division (A) of 8956
section 323.121 of the Revised Code. Current taxes, whether or not 8957
they have been certified delinquent, become delinquent taxes if 8958
they remain unpaid after the last day prescribed for payment of 8959
the second installment of current taxes without penalty. 8960

(E) "Delinquent taxes" means: 8961

(1) Any taxes charged against an entry on the general tax 8962
list and duplicate of real and public utility property that were 8963
charged against an entry on such list and duplicate for a prior 8964
tax year and any penalties and interest charged against such 8965
taxes. 8966

(2) Any current taxes charged on the general tax list and 8967
duplicate of real and public utility property that remain unpaid 8968
after the last day prescribed for payment of the second 8969
installment of such taxes without penalty, whether or not they 8970
have been certified delinquent, and any penalties and interest 8971
charged against such taxes. 8972

(F) "Current tax year" means, with respect to particular 8973
taxes, the calendar year in which the first installment of taxes 8974
is due prior to any extension granted under section 323.17 of the 8975
Revised Code. 8976

(G) "Liquidated claim" means: 8977

(1) Any sum of money due and payable, upon a written 8978
contractual obligation executed between the subdivision and the 8979
taxpayer, but excluding any amount due on general and special 8980
assessment bonds and notes; 8981

(2) Any sum of money due and payable, for disability 8982

financial assistance ~~or disability medical assistance~~ provided 8983
under Chapter 5115. of the Revised Code that is furnished to or in 8984
behalf of a subdivision, provided that such claim is recognized by 8985
a resolution or ordinance of the legislative body of such 8986
subdivision; 8987

(3) Any sum of money advanced and paid to or received and 8988
used by a subdivision, pursuant to a resolution or ordinance of 8989
such subdivision or its predecessor in interest, and the moral 8990
obligation to repay which sum, when in funds, shall be recognized 8991
by resolution or ordinance by the subdivision. 8992

Sec. 323.152. In addition to the reduction in taxes required 8993
under section 319.302 of the Revised Code, taxes shall be reduced 8994
as provided in divisions (A) and (B) of this section. 8995

(A)(1) Division (A) of this section applies to any of the 8996
following: 8997

(a) A person who is permanently and totally disabled; 8998

(b) A person who is sixty-five years of age or older; 8999

(c) A person who is the surviving spouse of a deceased person 9000
who was permanently and totally disabled or sixty-five years of 9001
age or older and who applied and qualified for a reduction in 9002
taxes under this division in the year of death, provided the 9003
surviving spouse is at least fifty-nine but not sixty-five or more 9004
years of age on the date the deceased spouse dies. 9005

(2) Real property taxes on a homestead owned and occupied, or 9006
a homestead in a housing cooperative occupied, by a person to whom 9007
division (A) of this section applies shall be reduced for each 9008
year for which the owner obtains a certificate of reduction from 9009
the county auditor under section 323.154 of the Revised Code or 9010
for which the occupant obtains a certificate of reduction in 9011
accordance with section 323.159 of the Revised Code. The reduction 9012

shall equal the amount obtained by multiplying the tax rate for
the tax year for which the certificate is issued by the reduction
in taxable value shown in the following schedule:

	Reduce Taxable Value	
Total Income	by the Lesser of:	
\$11,900 or less	\$5,000 or seventy-five per cent	
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent	
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent	
More than \$23,000	-0-	

(3) Each calendar year, the tax commissioner shall adjust the
foregoing schedule by completing the following calculations in
September of each year:

(a) Determine the percentage increase in the gross domestic
product deflator determined by the bureau of economic analysis of
the United States department of commerce from the first day of
January of the preceding calendar year to the last day of December
of the preceding calendar year;

(b) Multiply that percentage increase by each of the total
income amounts, and by each dollar amount by which taxable value
is reduced, for the current tax year;

(c) Add the resulting product to each of the total income
amounts, and to each of the dollar amounts by which taxable value
is reduced, for the current tax year;

(d)(i) Except as provided in division (A)(3)(d)(ii) of this
section, round the resulting sum to the nearest multiple of one
hundred dollars;

(ii) If rounding the resulting sum to the nearest multiple of
one hundred dollars under division (A)(3)(d)(i) of this section
does not increase the dollar amounts by which taxable value is

reduced, the resulting sum instead shall be rounded to the nearest
multiple of ten dollars.

The commissioner shall certify the amounts resulting from the
adjustment to each county auditor not later than the first day of
December each year. The certified amounts apply to the following
tax year. The commissioner shall not make the adjustment in any
calendar year in which the amounts resulting from the adjustment
would be less than the total income amounts, or less than the
dollar amounts by which taxable value is reduced, for the current
tax year.

(B) ~~Real~~ To provide a partial exemption, real property taxes
on any homestead, and manufactured home taxes on any manufactured
or mobile home on which a manufactured home tax is assessed
pursuant to division (D)(2) of section 4503.06 of the Revised
Code, shall be reduced for each year for which the owner obtains a
certificate of reduction from the county auditor under section
323.154 of the Revised Code. The amount of the reduction shall
equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which~~
~~the~~ of taxes charged and payable to be levied on the homestead or
the manufactured or mobile home ~~are reduced for such year under~~
after applying section ~~319.302~~ 319.301 of the Revised Code.

(C) The reductions granted by this section do not apply to
special assessments or respread of assessments levied against the
homestead, and if there is a transfer of ownership subsequent to
the filing of an application for a reduction in taxes, such
reductions are not forfeited for such year by virtue of such
transfer.

(D) The reductions in taxable value referred to in this
section shall be applied solely as a factor for the purpose of
computing the reduction of taxes under this section and shall not
affect the total value of property in any subdivision or taxing

district as listed and assessed for taxation on the tax lists and
duplicates, or any direct or indirect limitations on indebtedness
of a subdivision or taxing district. If after application of
sections 5705.31 and 5705.32 of the Revised Code, including the
allocation of all levies within the ten-mill limitation to debt
charges to the extent therein provided, there would be
insufficient funds for payment of debt charges not provided for by
levies in excess of the ten-mill limitation, the reduction of
taxes provided for in sections 323.151 to 323.159 of the Revised
Code shall be proportionately adjusted to the extent necessary to
provide such funds from levies within the ten-mill limitation.

(E) No reduction shall be made on the taxes due on the
homestead of any person convicted of violating division (C) or (D)
of section 323.153 of the Revised Code for a period of three years
following the conviction.

Sec. 323.17. When any taxing authority in the county has
certified to the board of elections a resolution that would serve
to place upon the ballot at a general election or at any special
election held prior to the general election but subsequent to the
first Tuesday after the first Monday in August the question of a
tax to be levied on the current tax list and duplicate for any
purpose, or if the auditor has not received the certified
reduction factors as required by division (D)(2) or (F)(2) of
section 319.301 of the Revised Code, the time for delivery of the
tax duplicate of the county treasurer by the county auditor as
provided in section 319.28 of the Revised Code shall be extended
to the first Monday in December. When delivery of the tax
duplicate has been so delayed, the times for payment of taxes as
fixed by section 323.12 of the Revised Code may be extended to the
thirty-first day of January and the twentieth day of July. In case
of emergency the tax commissioner may, by journal entry, extend

the times for delivery of the duplicate in any county for an 9104
additional fifteen days upon receipt of a written application from 9105
the county auditor, in the case of a delay in the delivery of the 9106
tax duplicate, or from the treasurer regarding an extension of the 9107
time for the billing and collection of taxes. 9108

When a delay in the closing of a tax collection period 9109
becomes unavoidable, the tax commissioner, upon application of the 9110
county auditor and county treasurer, may extend the time for 9111
payment of taxes if ~~he~~ the commissioner determines that penalties 9112
have accrued or would otherwise accrue for reasons beyond the 9113
control of the taxpayers of the county. The order so issued by the 9114
commissioner shall prescribe the final extended date for the 9115
payment of taxes for that collection period. 9116

"Emergency," as used in this section, includes death or 9117
serious illness, any organized work stoppage, mechanical failure 9118
of office equipment or machinery, or a delay in complying with 9119
section 5715.24 or 5715.26 of the Revised Code which will cause an 9120
unavoidable delay in the delivery of duplicates or in the billing 9121
or collection of taxes. Such application shall contain a statement 9122
describing the emergency that will cause the unavoidable delay. 9123
Any application from the county auditor for an extension of time 9124
for delivery of the duplicate due to an emergency must be received 9125
by the tax commissioner on or before the last day of the month 9126
preceding the date required for such delivery. When an extension 9127
of time for delivery of the duplicate is so granted, the time for 9128
payment of taxes shall be extended for a like period of time. 9129

Whenever taxable real property has been destroyed or damaged 9130
by fire, flood, tornado, or otherwise, in an amount not less than 9131
twenty-five per cent of the value as listed and assessed for 9132
taxation but in no event less than two thousand dollars of taxable 9133
value, the county board of revision, by resolution, may extend the 9134

time for payment of taxes on such property not more than one year 9135
after the time fixed by section 323.12 of the Revised Code. The 9136
board shall file a copy of such resolution with the county auditor 9137
and county treasurer, stating the name of the owner and 9138
description as it appears on the tax list, the taxing district, 9139
the type and kind of property destroyed or damaged, and the 9140
board's estimate of the amount of such destruction or damage. 9141

Sec. 325.31. (A) On the first business day of each month, and 9142
at the end of the officer's term of office, each officer named in 9143
section 325.27 of the Revised Code shall pay into the county 9144
treasury, to the credit of the general county fund, on the warrant 9145
of the county auditor, all fees, costs, penalties, percentages, 9146
allowances, and perquisites collected by the officer's office 9147
during the preceding month or part thereof for official services, 9148
except the fees allowed the county auditor by division (B) of 9149
section 319.54 of the Revised Code, which shall be paid into the 9150
county treasury to the credit of the real estate assessment fund 9151
hereby created. 9152

(B) Moneys to the credit of the real estate assessment fund 9153
may be expended, upon appropriation by the board of county 9154
commissioners, for the purpose of defraying one or more of the 9155
following: 9156

~~(1) The cost incurred by the county auditor in assessing real 9157
estate pursuant to Chapter 5713. of the Revised Code and 9158
manufactured and mobile homes pursuant to Chapter 4503. of the 9159
Revised Code;~~ 9160

~~(2) At the county auditor's discretion, costs and expenses 9161
incurred by the county auditor in preparing the list of real and 9162
public utility property, in administering laws related to the 9163
taxation of real property and the levying of special assessments 9164
on real property, including administering reductions under 9165~~

Chapters 319. and 323. and section 4503.065 of the Revised Code, 9166
and to support assessments of real property in any administrative 9167
or judicial proceeding; 9168

~~(3)~~(2) At the county auditor's discretion, the expenses 9169
incurred by the county board of revision under Chapter 5715. of 9170
the Revised Code; 9171

~~(4)~~(3) At the county auditor's discretion, the expenses 9172
incurred by the county auditor for geographic information systems, 9173
mapping programs, and technological advances in those or similar 9174
systems or programs; 9175

~~(5)~~(4) At the county auditor's discretion, expenses incurred 9176
by the county auditor in compiling the general tax list of 9177
tangible personal property and administering tangible personal 9178
property taxes under Chapters 5711. and 5719. of the Revised Code; 9179

~~(6)~~(5) At the county auditor's discretion, costs, expenses, 9180
and fees incurred by the county auditor in the administration of 9181
estate taxes under Chapter 5731. of the Revised Code, including 9182
costs, expenses, and fees incurred under section 5731.41 of the 9183
Revised Code, and costs, expenses, and fees incurred in assessing 9184
real estate pursuant to Chapter 5713. of the Revised Code and 9185
manufactured and mobile homes pursuant to Chapter 4503. of the 9186
Revised Code. 9187

Any expenditures made from the real estate assessment fund 9188
shall comply with rules that the tax commissioner adopts under 9189
division (O) of section 5703.05 of the Revised Code. Those rules 9190
shall include a requirement that a copy of any appraisal plans, 9191
progress of work reports, contracts, or other documents required 9192
to be filed with the tax commissioner shall be filed also with the 9193
board of county commissioners. 9194

The board of county commissioners shall not transfer moneys 9195
required to be deposited in the real estate assessment fund to any 9196

other fund. Following an assessment of real property pursuant to 9197
Chapter 5713. of the Revised Code, or an assessment of a 9198
manufactured or mobile home pursuant to Chapter 4503. of the 9199
Revised Code, any moneys not expended for the purpose of defraying 9200
the cost incurred in assessing real estate or manufactured or 9201
mobile homes or for the purpose of defraying the expenses 9202
described in divisions (B)(1), (2), (3), (4), and (5), ~~and (6)~~ of 9203
this section, and thereby remaining to the credit of the real 9204
estate assessment fund, shall be apportioned ratably and 9205
distributed to those taxing authorities that contributed to the 9206
fund. However, no such distribution shall be made if the amount of 9207
such unexpended moneys remaining to the credit of the real estate 9208
assessment fund does not exceed five thousand dollars. 9209

(C) None of the officers named in section 325.27 of the 9210
Revised Code shall collect any fees from the county. Each of such 9211
officers shall, at the end of each calendar year, make and file a 9212
sworn statement with the board of county commissioners of all such 9213
fees, costs, penalties, percentages, allowances, and perquisites 9214
which have been due in the officer's office and unpaid for more 9215
than one year prior to the date such statement is required to be 9216
made. 9217

Sec. 329.04. (A) The county department of job and family 9218
services shall have, exercise, and perform the following powers 9219
and duties: 9220

(1) Perform any duties assigned by the state department of 9221
job and family services regarding the provision of public family 9222
services, including the provision of the following services to 9223
prevent or reduce economic or personal dependency and to 9224
strengthen family life: 9225

(a) Services authorized by a Title IV-A program, as defined 9226
in section 5101.80 of the Revised Code; 9227

(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 <u>or 5101.461</u> of the Revised Code;	9228 9229 9230
(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services.	9231 9232 9233 9234 9235 9236 9237 9238
<u>(d) Duties assigned under section 5111.98 of the Revised Code.</u>	9239 9240
(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code;	9241 9242 9243
(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;	9244 9245 9246
(4) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law;	9247 9248 9249
(5) <u>(4)</u> Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;	9250 9251 9252
(6) <u>(5)</u> 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;	9253 9254 9255
(7) <u>(6)</u> Exercise any powers and duties relating to family services duties or workforce development activities imposed upon	9256 9257

the county department of job and family services by law, by 9258
resolution of the board of county commissioners, or by order of 9259
the governor, when authorized by law, to meet emergencies during 9260
war or peace; 9261

~~(8)~~(7) Determine the eligibility for medical assistance of 9262
recipients of aid under Title XVI of the "Social Security Act"; 9263

~~(9)~~(8) If assigned by the state director of job and family 9264
services under section 5101.515 of the Revised Code, determine 9265
applicants' eligibility for health assistance under the children's 9266
health insurance program part II; 9267

~~(10)~~(9) Enter into a plan of cooperation with the board of 9268
county commissioners under section 307.983, consult with the board 9269
in the development of the transportation work plan developed under 9270
section 307.985, establish with the board procedures under section 9271
307.986 for providing services to children whose families relocate 9272
frequently, and comply with the contracts the board enters into 9273
under sections 307.981 and 307.982 of the Revised Code that affect 9274
the county department; 9275

~~(11)~~(10) For the purpose of complying with a fiscal agreement 9276
the board of county commissioners enters into under section 307.98 9277
of the Revised Code, exercise the powers and perform the duties 9278
the fiscal agreement assigns to the county department; 9279

~~(12)~~(11) If the county department is designated as the 9280
workforce development agency, provide the workforce development 9281
activities specified in the contract required by section 330.05 of 9282
the Revised Code. 9283

(B) The powers and duties of a county department of job and 9284
family services are, and shall be exercised and performed, under 9285
the control and direction of the board of county commissioners. 9286
The board may assign to the county department any power or duty of 9287
the board regarding family services duties and workforce 9288

development activities. If the new power or duty necessitates the
state department of job and family services changing its federal
cost allocation plan, the county department may not implement the
power or duty unless the United States department of health and
human services approves the changes.

Sec. 329.051. The county department of job and family
services shall make voter registration applications as prescribed
by the secretary of state under section 3503.10 of the Revised
Code available to persons who are applying for, receiving
assistance from, or participating in any of the following:

(A) The disability financial assistance program established
under Chapter 5115. of the Revised Code;

~~(B) The disability medical assistance program established
under Chapter 5115. of the Revised Code;~~

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

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

~~(E)~~(D) The prevention, retention, and contingency program
established under Chapter 5108. of the Revised Code.

Sec. 339.72. (A) Each board of county commissioners shall
provide for the county to be served by a tuberculosis control unit
by designating a county tuberculosis control unit or by entering
into an agreement with one or more boards of county commissioners
of other counties under which the boards jointly designate a
district tuberculosis control unit. The entity designated as the
county or district tuberculosis control unit may be any of the
following:

(1) A communicable disease control program operated by a

board of health of a city or general health district pursuant to 9318
section 3709.22 of the Revised Code; 9319

~~(2) A tuberculosis program operated by a county that receives 9320
funds pursuant to section 339.77 of the Revised Code; 9321~~

~~(3) A tuberculosis clinic established by a board of county 9322
commissioners pursuant to section 339.76 of the Revised Code; 9323~~

~~(4)(3) A hospital that provides tuberculosis clinic services 9324
under a contract with a board of county commissioners pursuant to 9325
section 339.75 of the Revised Code. 9326~~

(B) The entity designated under division (A) of this section 9327
as the tuberculosis control unit shall accept that designation and 9328
fulfill its duties as the tuberculosis control unit specified 9329
under sections 339.71 to 339.89 of the Revised Code. 9330

Sec. 339.73. Each county or district tuberculosis control 9331
unit shall ensure that tuberculosis treatment is made available to 9332
all individuals with tuberculosis who reside in the area served by 9333
the unit. In making treatment available, the tuberculosis control 9334
unit may provide the treatment or make referrals for receipt of 9335
treatment from other entities. The unit may make referrals for 9336
receipt of temporary housing. 9337

The tuberculosis treatment provided under this section is 9338
limited to cases of active tuberculosis and infected contacts and 9339
includes provision of antituberculosis medication, conduct of an 9340
investigation under section 339.80 of the Revised Code, provision 9341
of appropriate follow-up services for confirmed and suspected 9342
cases of active tuberculosis, and provision of services by a 9343
physician through a course of therapy that meets the standards for 9344
tuberculosis treatment established by the United States centers 9345
for disease control and prevention or the American thoracic 9346
society. 9347

The tuberculosis control unit shall serve all residents 9348
within its jurisdiction, regardless of the length of time that the 9349
individual has resided in the area or the individual's income and 9350
resources. An individual who receives tuberculosis treatment shall 9351
disclose to the tuberculosis control unit the identity of any 9352
third party against whom the individual has or may have a right of 9353
recovery for the treatment provided. The board of county 9354
commissioners ~~is the payor of last resort for tuberculosis~~ 9355
~~treatment and shall~~ may pay for treatment only to the extent that 9356
payment is not made through third-party benefits. 9357

Sec. 339.88. The expenses incurred for detention under 9358
section 339.86 or 339.87 of the Revised Code shall be paid by the 9359
individual detained or if the individual is indigent, by the board 9360
of county commissioners of the county from which the individual 9361
was removed. ~~The board of county commissioners may apply to the~~ 9362
~~director of health for reimbursement under section 339.77 of the~~ 9363
~~Revised Code for expenses of detaining indigent individuals with~~ 9364
~~tuberculosis.~~ 9365

Sec. 340.03. (A) Subject to rules issued by the director of 9366
mental health after consultation with relevant constituencies as 9367
required by division (A)(11) of section 5119.06 of the Revised 9368
Code, with regard to mental health services, the board of alcohol, 9369
drug addiction, and mental health services shall: 9370

(1) Serve as the community mental health planning agency for 9371
the county or counties under its jurisdiction, and in so doing it 9372
shall: 9373

(a) Evaluate the need for facilities and community mental 9374
health services; 9375

(b) In cooperation with other local and regional planning and 9376
funding bodies and with relevant ethnic organizations, assess the 9377

community mental health needs, set priorities, and develop plans 9378
for the operation of facilities and community mental health 9379
services; 9380

(c) In accordance with guidelines issued by the director of 9381
mental health after consultation with board representatives, 9382
develop and submit to the department of mental health, no later 9383
than six months prior to the conclusion of the fiscal year in 9384
which the board's current plan is scheduled to expire, a community 9385
mental health plan listing community mental health needs, 9386
including the needs of all residents of the district now residing 9387
in state mental institutions and severely mentally disabled 9388
adults, children, and adolescents; all children subject to a 9389
determination made pursuant to section 121.38 of the Revised Code; 9390
and all the facilities and community mental health services that 9391
are or will be in operation or provided during the period for 9392
which the plan will be in operation in the service district to 9393
meet such needs. 9394

The plan shall include, but not be limited to, a statement of 9395
which of the services listed in section 340.09 of the Revised Code 9396
the board intends to provide or purchase, an explanation of how 9397
the board intends to make any payments that it may be required to 9398
pay under section 5119.62 of the Revised Code, a statement of the 9399
inpatient and community-based services the board proposes that the 9400
department operate, an assessment of the number and types of 9401
residential facilities needed, and such other information as the 9402
department requests, and a budget for moneys the board expects to 9403
receive. The board shall also submit an allocation request for 9404
state and federal funds. Within sixty days after the department's 9405
determination that the plan and allocation request are complete, 9406
the department shall approve or disapprove the plan and request, 9407
in whole or in part, according to the criteria developed pursuant 9408
to section 5119.61 of the Revised Code. The department's statement 9409

of approval or disapproval shall specify the inpatient and the 9410
community-based services that the department will operate for the 9411
board. Eligibility for financial support shall be contingent upon 9412
an approved plan or relevant part of a plan. 9413

If the director disapproves all or part of any plan, the 9414
director shall inform the board of the reasons for the disapproval 9415
and of the criteria that must be met before the plan may be 9416
approved. The director shall provide the board an opportunity to 9417
present its case on behalf of the plan. The director shall give 9418
the board a reasonable time in which to meet the criteria, and 9419
shall offer the board technical assistance to help it meet the 9420
criteria. 9421

If the approval of a plan remains in dispute thirty days 9422
prior to the conclusion of the fiscal year in which the board's 9423
current plan is scheduled to expire, the board or the director may 9424
request that the dispute be submitted to a mutually agreed upon 9425
third-party mediator with the cost to be shared by the board and 9426
the department. The mediator shall issue to the board and the 9427
department recommendations for resolution of the dispute. Prior to 9428
the conclusion of the fiscal year in which the current plan is 9429
scheduled to expire, the director, taking into consideration the 9430
recommendations of the mediator, shall make a final determination 9431
and approve or disapprove the plan, in whole or in part. 9432

If a board determines that it is necessary to amend a plan or 9433
an allocation request that has been approved under division 9434
(A)(1)(c) of this section, the board shall submit a proposed 9435
amendment to the director. The director may approve or disapprove 9436
all or part of the amendment. If the director does not approve all 9437
or part of the amendment within thirty days after it is submitted, 9438
the amendment or part of it shall be considered to have been 9439
approved. The director shall inform the board of the reasons for 9440
disapproval of all or part of an amendment and of the criteria 9441

that must be met before the amendment may be approved. The 9442
director shall provide the board an opportunity to present its 9443
case on behalf of the amendment. The director shall give the board 9444
a reasonable time in which to meet the criteria, and shall offer 9445
the board technical assistance to help it meet the criteria. 9446

The board shall implement the plan approved by the 9447
department. 9448

(d) Receive, compile, and transmit to the department of 9449
mental health applications for state reimbursement; 9450

(e) Promote, arrange, and implement working agreements with 9451
social agencies, both public and private, and with judicial 9452
agencies. 9453

(2) Investigate, or request another agency to investigate, 9454
any complaint alleging abuse or neglect of any person receiving 9455
services from a community mental health agency as defined in 9456
section 5122.01 of the Revised Code, or from a residential 9457
facility licensed under section 5119.22 of the Revised Code. If 9458
the investigation substantiates the charge of abuse or neglect, 9459
the board shall take whatever action it determines is necessary to 9460
correct the situation, including notification of the appropriate 9461
authorities. Upon request, the board shall provide information 9462
about such investigations to the department. 9463

(3) For the purpose of section 5119.611 of the Revised Code, 9464
cooperate with the director of mental health in visiting and 9465
evaluating whether the services of a community mental health 9466
agency satisfy the certification standards established by rules 9467
adopted under that section; 9468

(4) In accordance with criteria established under division 9469
(G) of section 5119.61 of the Revised Code, review and evaluate 9470
the quality, effectiveness, and efficiency of services provided 9471
through its community mental health plan and submit its findings 9472

and recommendations to the department of mental health; 9473

(5) In accordance with section 5119.22 of the Revised Code, 9474
review applications for residential facility licenses and 9475
recommend to the department of mental health approval or 9476
disapproval of applications; 9477

(6) Audit, in accordance with rules adopted by the auditor of 9478
state pursuant to section 117.20 of the Revised Code, at least 9479
annually all programs and services provided under contract with 9480
the board. In so doing, the board may contract for or employ the 9481
services of private auditors. A copy of the fiscal audit report 9482
shall be provided to the director of mental health, the auditor of 9483
state, and the county auditor of each county in the board's 9484
district. 9485

(7) Recruit and promote local financial support for mental 9486
health programs from private and public sources; 9487

(8)(a) Enter into contracts with public and private 9488
facilities for the operation of facility services included in the 9489
board's community mental health plan and enter into contracts with 9490
public and private community mental health agencies for the 9491
provision of community mental health services listed in section 9492
340.09 of the Revised Code and included in the board's community 9493
mental health plan. Contracts with community mental health 9494
agencies are subject to section 5119.611 of the Revised Code. 9495
Section 307.86 of the Revised Code does not apply to contracts 9496
entered into under this division. In contracting with a community 9497
mental health agency, a board shall consider the cost 9498
effectiveness of services provided by that agency and the quality 9499
and continuity of care, and may review cost elements, including 9500
salary costs, of the services to be provided. A utilization review 9501
process shall be established as part of the contract for services 9502
entered into between a board and a community mental health agency. 9503

The board may establish this process in a way that is most
effective and efficient in meeting local needs. In the case of a
contract with a community mental health facility, as defined in
section ~~5111.022~~ 5111.023 of the Revised Code, to provide services
listed in division (B) of that section, the contract shall provide
for the facility to be paid in accordance with the contract
entered into between the departments of job and family services
and mental health under section 5111.91 of the Revised Code and
any rules adopted under division (A) of section 5119.61 of the
Revised Code.

If either the board or a facility or community mental health
agency with which the board contracts under division (A)(8)(a) of
this section proposes not to renew the contract or proposes
substantial changes in contract terms, the other party shall be
given written notice at least one hundred twenty days before the
expiration date of the contract. During the first sixty days of
this one hundred twenty-day period, both parties shall attempt to
resolve any dispute through good faith collaboration and
negotiation in order to continue to provide services to persons in
need. If the dispute has not been resolved sixty days before the
expiration date of the contract, either party may notify the
department of mental health of the unresolved dispute. The
director may require both parties to submit the dispute to a third
party with the cost to be shared by the board and the facility or
community mental health agency. The third party shall issue to the
board, the facility or agency, and the department recommendations
on how the dispute may be resolved twenty days prior to the
expiration date of the contract, unless both parties agree to a
time extension. The director shall adopt rules establishing the
procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health,
a board may operate a facility or provide a community mental

health service as follows, if there is no other qualified private
or public facility or community mental health agency that is
immediately available and willing to operate such a facility or
provide the service:

(i) In an emergency situation, any board may operate a
facility or provide a community mental health service in order to
provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one
hundred thousand but less than five hundred thousand, a board may
operate a facility or provide a community mental health service
for no longer than one year;

(iii) In a service district with a population of less than
one hundred thousand, a board may operate a facility or provide a
community mental health service for no longer than one year,
except that such a board may operate a facility or provide a
community mental health service for more than one year with the
prior approval of the director and the prior approval of the board
of county commissioners, or of a majority of the boards of county
commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a
facility or provide a community mental health service under
division (A)(8)(b)(ii) or (iii) of this section unless the
director determines that it is not feasible to have the department
operate the facility or provide the service.

The director shall not give a board approval to operate a
facility or provide a community mental health service under
division (A)(8)(b)(iii) of this section unless the director
determines that the board will provide greater administrative
efficiency and more or better services than would be available if
the board contracted with a private or public facility or
community mental health agency.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the agency has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a

community support system, which provides for treatment, support, 9598
and rehabilitation services and opportunities. The essential 9599
elements of the system include, but are not limited to, the 9600
following components in accordance with section 5119.06 of the 9601
Revised Code: 9602

(a) To locate persons in need of mental health services to 9603
inform them of available services and benefits mechanisms; 9604

(b) Assistance for clients to obtain services necessary to 9605
meet basic human needs for food, clothing, shelter, medical care, 9606
personal safety, and income; 9607

(c) Mental health care, including, but not limited to, 9608
outpatient, partial hospitalization, and, where appropriate, 9609
inpatient care; 9610

(d) Emergency services and crisis intervention; 9611

(e) Assistance for clients to obtain vocational services and 9612
opportunities for jobs; 9613

(f) The provision of services designed to develop social, 9614
community, and personal living skills; 9615

(g) Access to a wide range of housing and the provision of 9616
residential treatment and support; 9617

(h) Support, assistance, consultation, and education for 9618
families, friends, consumers of mental health services, and 9619
others; 9620

(i) Recognition and encouragement of families, friends, 9621
neighborhood networks, especially networks that include racial and 9622
ethnic minorities, churches, community organizations, and 9623
meaningful employment as natural supports for consumers of mental 9624
health services; 9625

(j) Grievance procedures and protection of the rights of 9626
consumers of mental health services; 9627

(k) Case management, which includes continual individualized 9628
assistance and advocacy to ensure that needed services are offered 9629
and procured. 9630

(12) Designate the treatment program, agency, or facility for 9631
each person involuntarily committed to the board pursuant to 9632
Chapter 5122. of the Revised Code and authorize payment for such 9633
treatment. The board shall provide the least restrictive and most 9634
appropriate alternative that is available for any person 9635
involuntarily committed to it and shall assure that the services 9636
listed in section 340.09 of the Revised Code are available to 9637
severely mentally disabled persons residing within its service 9638
district. The board shall establish the procedure for authorizing 9639
payment for services, which may include prior authorization in 9640
appropriate circumstances. The board may provide for services 9641
directly to a severely mentally disabled person when life or 9642
safety is endangered and when no community mental health agency is 9643
available to provide the service. 9644

(13) Establish a method for evaluating referrals for 9645
involuntary commitment and affidavits filed pursuant to section 9646
5122.11 of the Revised Code in order to assist the probate 9647
division of the court of common pleas in determining whether there 9648
is probable cause that a respondent is subject to involuntary 9649
hospitalization and what alternative treatment is available and 9650
appropriate, if any; 9651

(14) Ensure that apartments or rooms built, subsidized, 9652
renovated, rented, owned, or leased by the board or a community 9653
mental health agency have been approved as meeting minimum fire 9654
safety standards and that persons residing in the rooms or 9655
apartments are receiving appropriate and necessary services, 9656
including culturally relevant services, from a community mental 9657
health agency. This division does not apply to residential 9658
facilities licensed pursuant to section 5119.22 of the Revised 9659

Code.	9660
(15) Establish a mechanism for involvement of consumer	9661
recommendation and advice on matters pertaining to mental health	9662
services in the alcohol, drug addiction, and mental health service	9663
district;	9664
(16) Perform the duties under section 3722.18 of the Revised	9665
Code required by rules adopted under section 5119.61 of the	9666
Revised Code regarding referrals by the board or mental health	9667
agencies under contract with the board of individuals with mental	9668
illness or severe mental disability to adult care facilities and	9669
effective arrangements for ongoing mental health services for the	9670
individuals. The board is accountable in the manner specified in	9671
the rules for ensuring that the ongoing mental health services are	9672
effectively arranged for the individuals.	9673
(B) The board shall establish such rules, operating	9674
procedures, standards, and bylaws, and perform such other duties	9675
as may be necessary or proper to carry out the purposes of this	9676
chapter.	9677
(C) A board of alcohol, drug addiction, and mental health	9678
services may receive by gift, grant, devise, or bequest any	9679
moneys, lands, or property for the benefit of the purposes for	9680
which the board is established, and may hold and apply it	9681
according to the terms of the gift, grant, or bequest. All money	9682
received, including accrued interest, by gift, grant, or bequest	9683
shall be deposited in the treasury of the county, the treasurer of	9684
which is custodian of the alcohol, drug addiction, and mental	9685
health services funds to the credit of the board and shall be	9686
available for use by the board for purposes stated by the donor or	9687
grantor.	9688
(D) No board member or employee of a board of alcohol, drug	9689
addiction, and mental health services shall be liable for injury	9690

or damages caused by any action or inaction taken within the scope 9691
of the board member's official duties or the employee's 9692
employment, whether or not such action or inaction is expressly 9693
authorized by this section, section 340.033, or any other section 9694
of the Revised Code, unless such action or inaction constitutes 9695
willful or wanton misconduct. Chapter 2744. of the Revised Code 9696
applies to any action or inaction by a board member or employee of 9697
a board taken within the scope of the board member's official 9698
duties or employee's employment. For the purposes of this 9699
division, the conduct of a board member or employee shall not be 9700
considered willful or wanton misconduct if the board member or 9701
employee acted in good faith and in a manner that the board member 9702
or employee reasonably believed was in or was not opposed to the 9703
best interests of the board and, with respect to any criminal 9704
action or proceeding, had no reasonable cause to believe the 9705
conduct was unlawful. 9706

(E) The meetings held by any committee established by a board 9707
of alcohol, drug addiction, and mental health services shall be 9708
considered to be meetings of a public body subject to section 9709
121.22 of the Revised Code. 9710

Sec. 340.16. Not later than ninety days after ~~the effective~~ 9711
~~date of this section~~ September 5, 2001, the department of mental 9712
health and the department of job and family services shall adopt 9713
rules that establish requirements and procedures for prior 9714
notification and service coordination between public children 9715
services agencies and boards of alcohol, drug addiction, and 9716
mental health services when a public children services agency 9717
refers a child in its custody to a board for services funded by 9718
the board. The rules shall be adopted in accordance with Chapter 9719
119. of the Revised Code. 9720

The department of mental health and department of job and 9721

family services shall collaborate in formulating a plan that 9722
delineates the funding responsibilities of public children 9723
services agencies and boards of alcohol, drug addiction, and 9724
mental health services for services provided under section 9725
~~5111.022~~ 5111.023 of the Revised Code to children in the custody 9726
of public children services agencies. The departments shall 9727
complete the plan not later than ninety days after ~~the effective~~ 9728
~~date of this section~~ September 5, 2001. 9729

Sec. 341.192. (A) As used in this section: 9730

(1) "Medical assistance program" has the same meaning as in 9731
section 2913.40 of the Revised Code. 9732

(2) "Medical provider" means a physician, hospital, 9733
laboratory, pharmacy, or other health care provider that is not 9734
employed by or under contract to a county to provide medical 9735
services to persons confined in the county jail and that is a 9736
medicaid provider under the medical assistance program. 9737

(3) "Necessary care" means medical care of a nonelective 9738
nature that cannot be postponed until after the period of 9739
confinement of a person who is confined in a county jail or in the 9740
custody of a law enforcement officer without endangering the life 9741
or health of the person. 9742

(B) If a physician employed by or under contract to a county 9743
to provide medical services to persons confined in the county jail 9744
determines that a person who is confined in the county jail or who 9745
is in the custody of a law enforcement officer prior to the 9746
person's confinement in the county jail requires necessary care 9747
that the physician cannot provide, the necessary care shall be 9748
provided by a medical provider. The county shall pay a medical 9749
provider for necessary care an amount not exceeding the authorized 9750
reimbursement rate for the same service established by the 9751

department of job and family services under the medical assistance 9752
program. 9753

Sec. 718.09. (A) This section applies to either of the 9754
following: 9755

(1) A municipal corporation that shares the same territory as 9756
a city, local, or exempted village school district, to the extent 9757
that not more than five per cent of the territory of the municipal 9758
corporation is located outside the school district and not more 9759
than five per cent of the territory of the school district is 9760
located outside the municipal corporation; 9761

(2) A municipal corporation that shares the same territory as 9762
a city, local, or exempted village school district, to the extent 9763
that not more than five per cent of the territory of the municipal 9764
corporation is located outside the school district, more than five 9765
per cent but not more than ten per cent of the territory of the 9766
school district is located outside the municipal corporation, and 9767
that portion of the territory of the school district that is 9768
located outside the municipal corporation is located entirely 9769
within another municipal corporation having a population of four 9770
hundred thousand or more according to the federal decennial census 9771
most recently completed before the agreement is entered into under 9772
division (B) of this section. 9773

(B) ~~Before January 1, 2001, the~~ The legislative authority of 9774
a municipal corporation to which this section applies may propose 9775
to the electors an income tax, one of the purposes of which shall 9776
be to provide financial assistance to the school district through 9777
payment to the district of not less than twenty-five per cent of 9778
the revenue generated by the tax. Prior to proposing the tax, the 9779
legislative authority shall negotiate and enter into a written 9780
agreement with the board of education of the school district 9781
specifying the tax rate, the percentage of tax revenue to be paid 9782

to the school district, the purpose for which the school district 9783
will use the money, the first year the tax will be levied, the 9784
date of the special election on the question of the tax, and the 9785
method and schedule by which the municipal corporation will make 9786
payments to the school district. The special election shall be 9787
held ~~before January 1, 2001,~~ on a day specified in division (D) of 9788
section 3501.01 of the Revised Code, except that the special 9789
election may not be held on the day for holding a primary election 9790
as authorized by the municipal corporation's charter unless the 9791
municipal corporation is to have a primary election on that day. 9792

After the legislative authority and board of education have 9793
entered into the agreement, the legislative authority shall 9794
provide for levying the tax by ordinance. The ordinance shall 9795
state the tax rate, the percentage of tax revenue to be paid to 9796
the school district, the purpose for which the municipal 9797
corporation will use its share of the tax revenue, the first year 9798
the tax will be levied, and that the question of the income tax 9799
will be submitted to the electors of the municipal corporation. 9800
The legislative authority also shall adopt a resolution specifying 9801
the regular or special election date the election will be held and 9802
directing the board of elections to conduct the election. At least 9803
seventy-five days before the date of the election, the legislative 9804
authority shall file certified copies of the ordinance and 9805
resolution with the board of elections. 9806

(C) The board of elections shall make the necessary 9807
arrangements for the submission of the question to the electors of 9808
the municipal corporation, and shall conduct the election in the 9809
same manner as any other municipal income tax election. Notice of 9810
the election shall be published in a newspaper of general 9811
circulation in the municipal corporation once a week for four 9812
consecutive weeks prior to the election, and shall include 9813
statements of the rate and municipal corporation and school 9814

district purposes of the income tax, the percentage of tax revenue 9815
that will be paid to the school district, and the first year the 9816
tax will be levied. The ballot shall be in the following form: 9817

"Shall the ordinance providing for a per cent levy on 9818
income for (brief description of the municipal corporation and 9819
school district purposes of the levy, including a statement of the 9820
percentage of tax revenue that will be paid to the school 9821
district) be passed? 9822

	For the income tax	
	Against the income tax	"

(D) If the question is approved by a majority of the 9823
electors, the municipal corporation shall impose the income tax 9824
beginning in the year specified in the ordinance. The proceeds of 9825
the levy may be used only for the specified purposes, including 9826
payment of the specified percentage to the school district. 9827

Sec. 718.10. (A) This section applies to a group of two or 9828
more municipal corporations that, taken together, share the same 9829
territory as a single city, local, or exempted village school 9830
district, to the extent that not more than five per cent of the 9831
territory of the municipal corporations as a group is located 9832
outside the school district and not more than five per cent of the 9833
territory of the school district is located outside the municipal 9834
corporations as a group. 9835

(B) ~~Before January 1, 2001, the~~ The legislative authorities 9836
of the municipal corporations in a group of municipal corporations 9837
to which this section applies each may propose to the electors an 9838
income tax, to be levied in concert with income taxes in the other 9839
municipal corporations of the group. One of the purposes of such a 9840

tax shall be to provide financial assistance to the school 9845
district through payment to the district of not less than 9846
twenty-five per cent of the revenue generated by the tax. Prior to 9847
proposing the taxes, the legislative authorities shall negotiate 9848
and enter into a written agreement with each other and with the 9849
board of education of the school district specifying the tax rate, 9850
the percentage of the tax revenue to be paid to the school 9851
district, the first year the tax will be levied, and the date of 9852
the election on the question of the tax, all of which shall be the 9853
same for each municipal corporation. The agreement also shall 9854
state the purpose for which the school district will use the 9855
money, and specify the method and schedule by which each municipal 9856
corporation will make payments to the school district. The special 9857
election shall be held ~~before January 1, 2001,~~ on a day specified 9858
in division (D) of section 3501.01 of the Revised Code, including 9859
a day on which all of the municipal corporations are to have a 9860
primary election. 9861

After the legislative authorities and board of education have 9862
entered into the agreement, each legislative authority shall 9863
provide for levying its tax by ordinance. Each ordinance shall 9864
state the rate of the tax, the percentage of tax revenue to be 9865
paid to the school district, the purpose for which the municipal 9866
corporation will use its share of the tax revenue, and the first 9867
year the tax will be levied. Each ordinance also shall state that 9868
the question of the income tax will be submitted to the electors 9869
of the municipal corporation on the same date as the submission of 9870
questions of an identical tax to the electors of each of the other 9871
municipal corporations in the group, and that unless the electors 9872
of all of the municipal corporations in the group approve the tax 9873
in their respective municipal corporations, none of the municipal 9874
corporations in the group shall levy the tax. Each legislative 9875
authority also shall adopt a resolution specifying the regular or 9876
special election date the election will be held and directing the 9877

board of elections to conduct the election. At least seventy-five 9878
days before the date of the election, each legislative authority 9879
shall file certified copies of the ordinance and resolution with 9880
the board of elections. 9881

(C) For each of the municipal corporations, the board of 9882
elections shall make the necessary arrangements for the submission 9883
of the question to the electors, and shall conduct the election in 9884
the same manner as any other municipal income tax election. For 9885
each of the municipal corporations, notice of the election shall 9886
be published in a newspaper of general circulation in the 9887
municipal corporation once a week for four consecutive weeks prior 9888
to the election. The notice shall include a statement of the rate 9889
and municipal corporation and school district purposes of the 9890
income tax, the percentage of tax revenue that will be paid to the 9891
school district, and the first year the tax will be levied, and an 9892
explanation that the tax will not be levied unless an identical 9893
tax is approved by the electors of each of the other municipal 9894
corporations in the group. The ballot shall be in the following 9895
form: 9896

"Shall the ordinance providing for a ... per cent levy on 9897
income for (brief description of the municipal corporation and 9898
school district purposes of the levy, including a statement of the 9899
percentage of income tax revenue that will be paid to the school 9900
district) be passed? In order for the income tax to be levied, the 9901
voters of (the other municipal corporations in the group), which 9902
are also in the (name of the school district) school district, 9903
must approve an identical income tax and agree to pay the same 9904
percentage of the tax revenue to the school district. 9905

	For the income tax
	Against the income tax

"

9906
9907
9908

9909

(D) If the question is approved by a majority of the electors 9910
and identical taxes are approved by a majority of the electors in 9911
each of the other municipal corporations in the group, the 9912
municipal corporation shall impose the tax beginning in the year 9913
specified in the ordinance. The proceeds of the levy may be used 9914
only for the specified purposes, including payment of the 9915
specified percentage to the school district. 9916

Sec. 723.52. Before letting or making any contract for the 9917
construction, reconstruction, widening, resurfacing, or repair of 9918
a street or other public way, the director of public service in a 9919
city, or the legislative authority in a village, shall make an 9920
estimate of the cost of such work using the force account project 9921
assessment form developed by the auditor of state under section 9922
117.16 of the Revised Code. In municipal corporations having an 9923
engineer, or an officer having a different title but the duties 9924
and functions of an engineer, the estimate shall be made by the 9925
engineer or other officer. Where the total estimated cost of any 9926
such work is thirty thousand dollars or the adjusted amount 9927
certified under section 117.162 of the Revised Code or less than 9928
that amount, the proper officers may proceed by force account. 9929

Where the total estimated cost of any such work exceeds 9930
thirty thousand dollars or the adjusted amount certified under 9931
section 117.162 of the Revised Code, the proper officers of the 9932
municipal corporation shall be required to invite and receive 9933
competitive bids for furnishing all the labor, materials, and 9934
equipment and doing the work, after newspaper advertisement as 9935
provided by law. The officers shall consider and may reject such 9936
bids. If the bids are rejected, the officers may order the work 9937
done by force account or direct labor. When such bids are 9938
received, considered, and rejected, and the work done by force 9939

account or direct labor, such work shall be performed in 9940
compliance with the plans and specifications upon which the bids 9941
were based. It shall be unlawful to divide a street or connecting 9942
streets into separate sections for the purpose of defeating this 9943
section and section 723.53 of the Revised Code. 9944

"Street," as used in such sections, includes portions of 9945
connecting streets on which the same or similar construction, 9946
reconstruction, widening, resurfacing, or repair is planned or 9947
projected. 9948

Sec. 723.53. Where the proper officers of any municipal 9949
corporation construct, reconstruct, widen, resurface, or repair a 9950
street or other public way by force account or direct labor, and 9951
the estimated cost of the work as defined in section 723.52 of the 9952
Revised Code exceeds thirty thousand dollars or the adjusted 9953
amount certified under section 117.162 of the Revised Code, such 9954
municipal authorities shall cause to be kept by the engineer of 9955
the municipal corporation, or other officer or employee of the 9956
municipal corporation in charge of such work, a complete and 9957
accurate account, in detail, of the cost of doing the work. The 9958
account shall include labor, materials, freight, fuel, hauling, 9959
overhead expense, workers' compensation premiums, and all other 9960
items of cost and expense, including a reasonable allowance for 9961
the use of all tools and equipment used on or in connection with 9962
such work and for the depreciation on the tools and equipment. The 9963
engineer or other officer or employee shall keep such account, and 9964
within ninety days after the completion of any such work shall 9965
prepare a detailed and itemized statement of such cost and file 9966
the statement with the officer or board vested with authority to 9967
direct the doing of the work in question. Such officer or board 9968
shall thereupon examine the statement, correct it if necessary, 9969
and file it in the office of the officer or board. Such statement 9970
shall be kept on file for not less than two years and shall be 9971

open to public inspection. 9972

This section and section 723.52 of the Revised Code do not 9973
apply to any municipal corporations having a charter form of 9974
government. 9975

Sec. 742.59. The board of trustees of the Ohio police and 9976
fire pension fund shall be the trustee of the funds created as 9977
follows: 9978

(A) The "police officers' contribution fund" is the fund in 9979
which shall be credited the contributions deducted from the 9980
salaries of members of police departments and paid into the Ohio 9981
police and fire pension fund, as provided by section 742.31 of the 9982
Revised Code, and that percentage of the employers' accrued 9983
liability that is attributable to deductions previously made from 9984
the salaries of members of the police department who are still in 9985
the active service at the time that portion of the employers' 9986
accrued liability is paid. The accumulated contributions of a 9987
member of a police department shall be transferred at the member's 9988
retirement from the police officers' contribution fund to the 9989
police officers' pension reserve fund. 9990

(B) The "firefighters' contribution fund" is the fund in 9991
which shall be credited contributions deducted from the salaries 9992
of members of fire departments and paid into the Ohio police and 9993
fire pension fund, as provided by section 742.31 of the Revised 9994
Code, and that percentage of the employers' accrued liability that 9995
is attributable to deductions previously made from the salaries of 9996
members of the fire department who are still in the active service 9997
at the time that portion of the employers' accrued liability is 9998
paid. The accumulated contributions of a member of a fire 9999
department shall be transferred at the member's retirement from 10000
the firefighters' contribution fund to the firefighters' pension 10001
reserve fund. 10002

(C) The "police officer employers' contribution fund" is the 10003
fund to which the following shall be credited: 10004

(1) The police officer employers' contribution, as provided 10005
by section 742.33 of the Revised Code, ~~and that;~~ 10006

(2) The percentage of the employers' accrued liability that 10007
is attributable to the employers' liability for prior service of 10008
members of the police department who are still in the active 10009
service at the time that portion of the employers' accrued 10010
liability is paid, ~~and that portion of the state contribution~~ 10011
~~allocated to such fund, as provided by section 742.36 of the~~ 10012
~~Revised Code, shall be credited, and in which shall be~~ 10013
~~accumulated.~~ 10014

In the police officer employers' contribution fund shall 10015
accumulate the reserves held in trust for the payment of all 10016
pensions or other benefits provided by sections 742.01 to 742.61 10017
of the Revised Code to members of a police department retiring in 10018
the future or their qualified beneficiaries and from which the 10019
reserves for such pensions and other benefits shall be transferred 10020
to the police officers' pension reserve fund. 10021

(D) The "firefighter employers' contribution fund" is the 10022
fund to which the following shall be credited: 10023

(1) The firefighter employers' contribution, as provided in 10024
section 742.34 of the Revised Code, ~~and that;~~ 10025

(2) The percentage of the employers' accrued liability that 10026
is attributable to the employers' liability for prior service for 10027
members of the fire department who are still in the active service 10028
at the time that portion of the employers' accrued liability is 10029
paid, ~~and that portion of the state contribution allocated to such~~ 10030
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 10031
~~credited, and in which shall be accumulated.~~ 10032

In the firefighter employers' contribution fund shall 10033
accumulate the reserves held in trust for the payment of all 10034
pensions and other benefits provided by sections 742.01 to 742.61 10035
of the Revised Code to members of a fire department retiring in 10036
the future or their qualified beneficiaries and from which the 10037
reserves for such pensions and other benefits shall be transferred 10038
to the firefighters' pension reserve fund. 10039

(E) The "police officers' pension reserve fund" is the fund 10040
from which shall be paid all pensions and other benefits for which 10041
reserves have been transferred from the police officers' 10042
contribution fund and the police officer employers' contribution 10043
fund, and to which shall be credited that percentage of the 10044
employers' accrued liability that is attributable to the total of 10045
deductions previously made from the salaries of members of the 10046
police department who are retired and are receiving pensions or 10047
other benefits, or whose beneficiaries are receiving benefits, at 10048
the time that portion of the employers' accrued liability is paid, 10049
and that percentage of the employers' accrued liability that is 10050
attributable to prior service of members of the police department 10051
who are retired and are receiving pensions or other benefits, or 10052
whose beneficiaries are receiving benefits, at the time that 10053
portion of the employers' accrued liability is paid. 10054

(F) The "firefighters' pension reserve fund" is the fund from 10055
which shall be paid all pensions and other benefits for which 10056
reserves have been transferred from the firefighters' contribution 10057
fund and the firefighter employers' contribution fund, and to 10058
which shall be credited that percentage of the employers' accrued 10059
liability that is attributable to the total of deductions 10060
previously made from the salaries of members of the fire 10061
department who are retired and are receiving pensions or other 10062
benefits, or whose beneficiaries are receiving benefits, at the 10063
time that portion of the employers' accrued liability is paid, and 10064

that percentage of the employers' accrued liability that is 10065
attributable to prior service of members of the fire department 10066
who are retired and are receiving pensions or other benefits, or 10067
whose beneficiaries are receiving benefits, at the time that 10068
portion of the employers' accrued liability is paid. 10069

(G) The "guarantee fund" is the fund from which interest is 10070
transferred and credited on the amounts in the funds described in 10071
divisions (C), (D), (E), and (F) of this section, and is a 10072
contingent fund from which the special requirements of said funds 10073
may be paid by transfer from this fund. All income derived from 10074
the investment of funds by the board of trustees of the Ohio 10075
police and fire pension fund as trustee under section 742.11 of 10076
the Revised Code, together with all gifts and bequests or the 10077
income therefrom, shall be paid into this fund. 10078

Any deficit occurring in any other fund that will not be 10079
covered by payments to that fund, as otherwise provided by 10080
sections 742.01 to 742.61 of the Revised Code, shall be paid by 10081
transfers of amounts from the guarantee fund to such fund or 10082
funds. Should the amount in the guarantee fund be insufficient at 10083
any time to meet the amounts payable therefrom, the amount of such 10084
deficiency, with regular interest, shall be paid by an additional 10085
employer rate of current contribution as determined by the actuary 10086
and shall be approved by the board of trustees of the Ohio police 10087
and fire pension fund, and the amount of such additional employer 10088
contribution shall be credited to the guarantee fund. 10089

The board may accept gifts and bequests. Any funds that may 10090
come into the possession of the board in this manner, or any other 10091
funds whose disposition is not otherwise provided for, shall be 10092
credited to the guarantee fund. 10093

(H) The "expense fund" is the fund from which shall be paid 10094
the expenses for the administration and management of the Ohio 10095

police and fire pension fund, as provided by sections 742.01 to 10096
742.61 of the Revised Code, and to which shall be credited from 10097
the guarantee fund an amount sufficient to pay the expenses of 10098
operation. 10099

Sec. 901.43. (A) The director of agriculture may authorize 10100
any department of agriculture laboratory to perform a laboratory 10101
service for any person, organization, political subdivision, state 10102
agency, federal agency, or other entity, whether public or 10103
private. The director shall adopt and enforce rules to provide for 10104
the rendering of a laboratory service. 10105

(B) The director may charge a reasonable fee for the 10106
performance of a laboratory service, except when the service is 10107
performed on an official sample taken by the director acting 10108
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the 10109
Revised Code; by a board of health acting as the licensor of 10110
retail food establishments or food service operations under 10111
Chapter 3717. of the Revised Code; or by the director of health 10112
acting as the licensor of food service operations under Chapter 10113
3717. of the Revised Code. The director of agriculture shall adopt 10114
rules specifying what constitutes an official sample. 10115

The director shall publish a list of laboratory services 10116
offered, together with the fee for each service. 10117

(C) The director may enter into a contract with any person, 10118
organization, political subdivision, state agency, federal agency, 10119
or other entity for the provision of a laboratory service. 10120

(D)(1) The director may adopt rules establishing standards 10121
for accreditation of laboratories and laboratory services and in 10122
doing so may adopt by reference existing or recognized standards 10123
or practices. 10124

(2) The director may inspect and accredit laboratories and 10125

laboratory services, and may charge a reasonable fee for the 10126
inspections and accreditation. 10127

(E)(1) ~~All~~ There is hereby created in the state treasury the 10128
animal and consumer analytical laboratory service fund. Moneys 10129
from the following sources shall be deposited into the state 10130
treasury to the credit of the fund: all moneys collected by the 10131
director under this section that are from fees generated by a 10132
laboratory service performed by the department and related to the 10133
diseases of animals, ~~and~~ all moneys so collected that are from 10134
fees generated for the inspection and accreditation of 10135
laboratories and laboratory services related to the diseases of 10136
animals, ~~shall be deposited in the animal industry laboratory~~ 10137
~~fund, which is hereby created in the state treasury. The director~~ 10138
~~shall use the moneys in the animal industry laboratory fund to pay~~ 10139
~~the expenses necessary to operate the animal industry laboratory,~~ 10140
~~including the purchase of supplies and equipment.~~ 10141

~~(2)~~ All all moneys collected by the director under this 10142
section that are from fees generated by a laboratory service 10143
performed by the consumer analytical laboratory, and all moneys so 10144
collected that are from fees generated for the inspection and 10145
accreditation of laboratories and laboratory services not related 10146
to weights and measures ~~or the diseases of animals, shall be~~ 10147
~~deposited in the laboratory services fund, which is hereby created~~ 10148
~~in the state treasury. The~~ director may use the moneys held in the 10149
fund ~~may be used~~ to pay the expenses necessary to operate the 10150
animal industry laboratory and the consumer analytical laboratory, 10151
including the purchase of supplies and equipment. 10152

~~(3)~~ (2) All moneys collected by the director under this 10153
section that are from fees generated by a laboratory service 10154
performed by the weights and measures laboratory, and all moneys 10155
so collected that are from fees generated for the inspection and 10156
accreditation of laboratories and laboratory services related to 10157

weights and measures, shall be deposited in the state treasury to 10158
the credit of the weights and measures laboratory fund, which is 10159
hereby created in the state treasury. The moneys held in the fund 10160
may be used to pay the expenses necessary to operate the division 10161
of weights and measures, including the purchase of supplies and 10162
equipment. 10163

Sec. 901.44. There is hereby created in the state treasury 10164
the laboratory and administrative support fund. The department of 10165
agriculture shall deposit the following moneys received by the 10166
department to the credit of the fund: payment for the rental of 10167
the department's auditoriums by outside parties and reimbursement 10168
for related utility expenses, laboratory fees that are not 10169
designated for deposit into another fund, and other miscellaneous 10170
moneys that are not designated for deposit into another fund. The 10171
department may use moneys in the fund to pay costs associated with 10172
any program of the department as the director of agriculture sees 10173
fit. 10174

Sec. 905.32. (A) No person shall manufacture or distribute in 10175
this state any type of fertilizer until a license to manufacture 10176
or distribute has been obtained by the manufacturer or distributor 10177
from the department of agriculture upon payment of a five dollar 10178
fee: 10179

(1) For each fixed (permanent) location at which fertilizer 10180
is manufactured in this state; 10181

(2) For each mobile unit used to manufacture fertilizer in 10182
this state; 10183

(3) For each location out of the state from which fertilizer 10184
is distributed in this state to nonlicensees. 10185

All licenses ~~expire on the thirtieth day of June of each~~ 10186
shall be valid for one year beginning on the first day of December 10187

of a calendar year through the thirtieth day of November of the 10188
following calendar year. A renewal application for a license shall 10189
be submitted ~~no earlier than the first day of June each year and~~ 10190
no later than the thirtieth day of ~~June~~ November each year. A 10191
person who submits a renewal application for a license after the 10192
thirtieth day of ~~June~~ November shall include with the application 10193
a late filing fee of ten dollars. 10194

(B) An application for license shall include: 10195

(1) The name and address of the licensee; 10196

(2) The name and address of each bulk distribution point in 10197
the state, not licensed for fertilizer manufacture and 10198
distribution. 10199

The name and address shown on the license shall be shown on 10200
all labels, pertinent invoices, and bulk storage for fertilizers 10201
distributed by the licensee in this state. 10202

(C) The licensee shall inform the director of agriculture in 10203
writing of additional distribution points established during the 10204
period of the license. 10205

Sec. 905.33. (A) Except as provided in division (C) of this 10206
section, no person shall distribute in this state a specialty 10207
fertilizer until it is registered by the manufacturer or 10208
distributor with the department of agriculture. An application, in 10209
duplicate, for each brand and product name of each grade of 10210
specialty fertilizer shall be made on a form furnished by the 10211
director of agriculture and shall be accompanied with a fee of 10212
fifty dollars for each brand and product name of each grade. 10213
Labels for each brand and product name of each grade shall 10214
accompany the application. Upon the approval of an application by 10215
the director, a copy of the registration shall be furnished the 10216
applicant. All registrations ~~expire on the thirtieth day of June~~ 10217

~~of each shall be valid for one year beginning on the first day of~~ 10218
~~December of a calendar year through the thirtieth day of November~~ 10219
~~of the following calendar year.~~ 10220

(B) An application for registration shall include the 10221
following: 10222

(1) Name and address of the manufacturer or distributor; 10223

(2) The brand and product name; 10224

(3) The grade; 10225

(4) The guaranteed analysis; 10226

(5) The package sizes for persons that package fertilizers 10227
only in containers of ten pounds or less. 10228

(C)(1) No person who engages in the business of applying 10229
custom mixed fertilizer to lawns, golf courses, recreation areas, 10230
or other real property that is not used for agricultural 10231
production shall be required to register the custom mixed 10232
fertilizer as a specialty fertilizer in accordance with division 10233
(A) of this section if the fertilizer ingredients of the custom 10234
mixed fertilizer are registered as specialty fertilizers and the 10235
inspection fee described in division (A) of section 905.36 of the 10236
Revised Code is paid. 10237

(2) No person who engages in the business of blending custom 10238
mixed fertilizer for use on lawns, golf courses, recreation areas, 10239
or other real property that is not used for agricultural 10240
production shall be required to register the custom mixed 10241
fertilizer as a specialty fertilizer in accordance with division 10242
(A) of this section if the facility holds a nonagricultural 10243
production custom mixed fertilizer blender license issued under 10244
section 905.331 of the Revised Code. 10245

(D) A person who engages in the business of applying or 10246
blending custom mixed fertilizer as described in division (C) of 10247

this section shall maintain an original or a copy of an invoice or document of sale for all fertilizer the person applies or distributes for one year following the date of the application or distribution, and, upon the director's request, shall furnish the director with the invoice or document of sale for the director's review.

Sec. 905.331. No person who engages in the business of blending a custom mixed fertilizer for use on lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall fail to register a specialty fertilizer in accordance with division (A) of section 905.33 of the Revised Code unless the person has obtained a an annual nonagricultural production custom mixed fertilizer blender license from the director of agriculture.

A license issued under this section shall be valid from the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a nonagricultural production custom mixed fertilizer blender license shall be submitted to the director ~~no earlier than the first day of June each year and~~ no later than the thirtieth day of ~~June~~ November each year and shall include the name and address of the applicant and of the premises where the blending occurs and a one-hundred-dollar fee. A person who submits a renewal application for a license after the thirtieth day of ~~June~~ November shall include with the application a late filing fee of ten dollars. All nonagricultural production custom mixed fertilizer blender licenses expire on the thirtieth day of ~~June~~ November each year.

A person holding a nonagricultural production custom mixed fertilizer blender license shall pay the inspection fees described in division (A) of section 905.36 of the Revised Code for each

product being blended.

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Sec. 905.36. (A) A licensee or registrant, except registrants
who package specialty fertilizers only in containers of ten pounds
or less, shall pay the director of agriculture for all fertilizers
distributed in this state an inspection fee at the rate of ~~twelve~~
twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per
metric ton. Licensees and registrants shall specify on an invoice
whether the per ton inspection fee has been paid or whether
payment of the fee is the responsibility of the purchaser of the
fertilizer. The payment of this inspection fee by a licensee or
registrant shall exempt all other persons from the payment of this
fee.

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(B) Every licensee or registrant shall file a ~~semiannual~~
~~statement~~ with the director an annual tonnage report that includes
the number of net tons or metric tons of fertilizer distributed to
nonlicensees or nonregistrants in this state by grade; packaged;
bulk, dry or liquid; ~~within thirty days after the thirtieth day of~~
~~June, and within thirty days after the thirty first day of~~
~~December, respectively, of.~~ The report shall be filed on or before
the thirtieth day of November of each calendar year and shall
include data from the period beginning on the first day of
November of the year preceding the year in which the report is due
through the thirty-first day of October of the year in which the
report is due. The licensee or registrant, except registrants who
package specialty fertilizers only in containers of ten pounds or
less, shall include with this statement the inspection fee at the
rate stated in division (A) of this section. For a tonnage report
that is not filed or payment of inspection fees that is not made
~~within ten days after due date~~ on or before the thirtieth day of
November of the applicable calendar year, a penalty of fifty
dollars or ten per cent of the amount due, whichever is greater,

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shall be assessed against the licensee or registrant. The amount 10310
of fees due, plus penalty, shall constitute a debt and become the 10311
basis of a judgment against the licensee or registrant. For 10312
tonnage reports found to be incorrect, a penalty of fifteen per 10313
cent of the amount due shall be assessed against the licensee or 10314
registrant and shall constitute a debt and become the basis of a 10315
judgment against the licensee or registrant. 10316

(C) No information furnished under this section shall be 10317
disclosed by any employee of the department of agriculture in such 10318
a way as to divulge the operation of any person required to make 10319
such a report. The filing by a licensee or registrant of a sales 10320
volume tonnage statement required by division (B) of this section 10321
thereby grants permission to the director to verify the same with 10322
the records of the licensee or registrant. 10323

Sec. 905.37. (A) The director of agriculture ~~shall~~ may 10324
distribute annual statements of fertilizer sales by grades of 10325
materials and mixed fertilizer by counties, in a manner prescribed 10326
by the director. 10327

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 10328
of the analysis of fertilizers inspected. 10329

(C) The director may distribute a state fertilizer usage 10330
report by grade of materials and mixed fertilizers for each month. 10331

Sec. 905.38. The commercial feed, fertilizer, seed, and lime 10332
inspection and laboratory fund is hereby created in the state 10333
treasury. All moneys collected by the director of agriculture 10334
under sections 905.31 to 905.50 of the Revised Code, shall be 10335
deposited into the fund. Moneys credited to the fund under this 10336
section and sections 905.66, 907.16, and 923.46 of the Revised 10337
Code shall be used for administering and enforcing this chapter 10338
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 10339

adopted under them. 10340

Sec. 905.381. The director of agriculture shall keep accurate 10341
accounts of all receipts and disbursements from the commercial 10342
feed, fertilizer, seed, and lime inspection and laboratory fund, 10343
and shall prepare, and provide upon request, an annual report 10344
classifying the receipts and disbursements as pertaining to either 10345
feed, fertilizer, seed, or lime. 10346

Sec. 905.50. If the director of agriculture has taken an 10347
official sample of a fertilizer or mixed fertilizer and determined 10348
that it constitutes mislabeled fertilizer pursuant to rules 10349
adopted under section 905.40 of the Revised Code, the person who 10350
labeled the fertilizer or mixed fertilizer shall pay a penalty to 10351
the consumer of the mislabeled fertilizer or, if the consumer 10352
cannot be determined with reasonable diligence or is not 10353
available, to the director for deposit into the commercial feed, 10354
fertilizer, seed, and lime inspection and laboratory fund created 10355
under section 905.38 of the Revised Code. The amount of the 10356
penalty shall be calculated in accordance with either division (A) 10357
or (B) of this section, whichever method of calculation yields the 10358
largest amount. 10359

(A)(1) A penalty required to be paid under this section may 10360
be calculated as follows: 10361

(a) Five dollars for each percentage point of total nitrogen 10362
or phosphorus in the fertilizer that is below the percentage of 10363
nitrogen or phosphorus guaranteed on the label, multiplied by the 10364
number of tons of mislabeled fertilizer that have been sold to the 10365
consumer; 10366

(b) Three dollars for each percentage point of potash in the 10367
fertilizer that is below the percentage of potash guaranteed on 10368
the label, multiplied by the number of tons of mislabeled 10369

fertilizer that have been sold to the consumer. 10370

(2) In the case of a fertilizer that contains a quantity of 10371
nitrogen, phosphorus, or potash that is more than five percentage 10372
points below the percentages guaranteed on the label, the 10373
penalties calculated under division (A)(1) of this section shall 10374
be tripled. 10375

(3) No penalty calculated under division (A) of this section 10376
shall be less than twenty-five dollars. 10377

(B) A penalty required to be paid under this section may be 10378
calculated by multiplying the market value of one unit of the 10379
mislabeled fertilizer by the number of units of the mislabeled 10380
fertilizer that have been sold to the consumer. 10381

(C) Upon making a determination under this section that a 10382
person has mislabeled fertilizer or mixed fertilizer, the director 10383
shall determine the parties to whom the penalty imposed by this 10384
section is required to be paid and, in accordance with division 10385
(A) or (B) of this section, as applicable, shall calculate the 10386
amount of the penalty required to be paid to each such party. 10387
After completing those determinations and calculations, the 10388
director shall issue to the person who allegedly mislabeled the 10389
fertilizer or mixed fertilizer a notice of violation. The notice 10390
shall be accompanied by an order requiring, and specifying the 10391
manner of, payment of the penalty imposed by this section to the 10392
parties in the amounts set forth in the determinations and 10393
calculations required by this division. The order shall be issued 10394
in accordance with Chapter 119. of the Revised Code. 10395

No person shall violate a term or condition of an order 10396
issued under this division. 10397

Sec. 905.501. (A) As used in this section, ~~"political:~~ 10398

(1) "Political subdivision" means a county, township, or 10399

municipal corporation and any other body corporate and politic 10400
that is responsible for government activities in a geographic area 10401
smaller than that of the state. 10402

(2) "Local legislation" includes, but is not limited to, an 10403
ordinance, resolution, regulation, rule, motion, or amendment that 10404
is enacted or adopted by a political subdivision. 10405

(B)(1) No political subdivision shall regulate the 10406
registration, packaging, labeling, sale, storage, distribution, 10407
use, or application of fertilizer, or require a person licensed or 10408
registered under sections 905.31 to 905.99 of the Revised Code to 10409
obtain a license or permit to operate in a manner described in 10410
those sections, or to satisfy any other condition except as 10411
provided by a statute or rule of this state or of the United 10412
States. 10413

(2) No political subdivision shall enact, adopt, or continue 10414
in effect local legislation relating to the registration, 10415
packaging, labeling, sale, storage, distribution, use, or 10416
application of fertilizers. 10417

Sec. 905.66. All moneys collected by the director of 10418
agriculture under sections 905.51 to 905.65 of the Revised Code 10419
shall be deposited into the commercial feed, fertilizer, seed, and 10420
lime inspection and laboratory fund created under section 905.38 10421
of the Revised Code. 10422

The director shall prepare and provide a report concerning 10423
the fund in accordance with section 905.381 of the Revised Code. 10424

Sec. 907.111. (A) The department of agriculture has sole and 10425
exclusive authority to regulate the registration, labeling, sale, 10426
storage, transportation, distribution, notification of use, use, 10427
and planting of seed within the state. The regulation of seed is a 10428
matter of general statewide interest that requires uniform 10429

statewide regulation, and this chapter and rules adopted under it 10430
constitute a comprehensive plan with respect to all aspects of the 10431
regulation of seed within this state. 10432

(B) No political subdivision shall do any of the following: 10433

(1) Regulate the registration, labeling, sale, storage, 10434
transportation, distribution, notification of use, use, or 10435
planting of seed; 10436

(2) Require a person who has been issued a permit or license 10437
under this chapter to obtain a permit or license to operate in a 10438
manner described in this chapter or to satisfy any other condition 10439
except as provided by a statute or rule of this state or of the 10440
United States; 10441

(3) Require a person who has registered a legume inoculant 10442
under this chapter to register that inoculant in a manner 10443
described in this chapter or to satisfy any other condition except 10444
as provided by a statute or rule of this state or of the United 10445
States. 10446

(C) No political subdivision shall enact, adopt, or continue 10447
in effect local legislation relating to the permitting or 10448
licensure of any person who is required to obtain a permit or 10449
license under this chapter or to the registration, labeling, sale, 10450
storage, transportation, distribution, notification of use, use, 10451
or planting of seed. 10452

(D) As used in this section, "political subdivision" and 10453
"local legislation" have the same meanings as in section 905.501 10454
of the Revised Code. 10455

Sec. 907.16. All money collected by the director of 10456
agriculture under sections 907.01 to 907.17 of the Revised Code 10457
shall be deposited into the treasury of the state to the credit of 10458

the commercial feed, fertilizer, seed, and lime inspection and 10459
laboratory fund, which is hereby created in the state treasury. 10460
~~Money credited to the fund shall be used to administer and enforce~~ 10461
~~those sections and rules adopted under them~~ section 905.38 of the 10462
Revised Code. 10463

Sec. 911.02. Each person, firm, partnership, or corporation 10464
that owns or operates a bakery shall register each bakery that it 10465
owns or operates with the director of agriculture. For the 10466
registration, the owner or operator of each bakery shall pay an 10467
annual fee of ~~thirty~~ sixty dollars for a production capacity of 10468
one thousand pounds of bakery product per hour or less and an 10469
annual fee of ~~thirty~~ sixty dollars for each one thousand pounds of 10470
bakery product per hour capacity, or part thereof, in excess of 10471
one thousand pounds of bakery product per hour. 10472

Any person who owns or operates a home bakery with only one 10473
oven, in a stove of ordinary home kitchen design and located in a 10474
home, used for the baking of baked goods to be sold, shall pay a 10475
sum of ~~ten~~ twenty dollars annually for registration regardless of 10476
the capacity of the home bakery oven. The registration shall be 10477
renewed annually by the thirtieth day of September and shall be 10478
renewed according to the standard renewal procedure of Chapter 10479
4745. of the Revised Code. The registration of the bakery shall 10480
show the location, including municipal corporation, street, and 10481
number, the name of the owner, and the name of the operator. The 10482
application for registration shall be made on a form prescribed 10483
and provided by the director. All moneys received from 10484
registration fees and fines collected under sections 911.01 to 10485
911.20 of the Revised Code shall be deposited with the treasurer 10486
of state to the credit of the food safety fund created in section 10487
915.24 of the Revised Code. All annual renewal registration fees 10488
required by this section shall be paid by the applicant for the 10489
renewal to the treasurer of state for deposit into the food safety 10490

fund. 10491

No bakery product that is manufactured in an out-of-state 10492
bakery shall be sold or offered for sale within this state unless 10493
the bakery is in compliance with sections 911.01 to 911.20 of the 10494
Revised Code, and is registered, having paid the annual 10495
registration fee. 10496

Registration of out-of-state bakeries is not required if a 10497
reciprocal agreement is in effect whereby a bakery located in this 10498
state is not subject to a license or registration fee by the 10499
receiving state or a political subdivision thereof. 10500

Sec. 913.02. No person, firm, or corporation shall engage in 10501
the business of operating a cannery without obtaining a license 10502
for the operation of each cannery from the director of 10503
agriculture. 10504

In order to obtain a license, an application shall be made on 10505
a form prescribed by the director and shall be accompanied by a 10506
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 10507
an investigation to be made. If the applicant is supplied with the 10508
facilities necessary for complying with sections 913.01 to 913.05 10509
of the Revised Code and rules adopted under them, a license shall 10510
be issued and shall be effective until the thirtieth day of June, 10511
and shall become invalid on that date unless renewed. The fee for 10512
each renewal is ~~one~~ two hundred dollars. License fees and renewal 10513
fees shall be deposited to the credit of the food safety fund 10514
created in section 915.24 of the Revised Code. 10515

The director may suspend or revoke any license for failure to 10516
comply with sections 913.01 to 913.05 of the Revised Code, or any 10517
rule or order adopted under those sections. In such event, the 10518
cannery immediately shall cease operation. 10519

Sec. 913.23. (A) The director of agriculture may issue 10520

licenses as required by sections 913.22 to 913.28 of the Revised 10521
Code, may make the inspections and registrations required by those 10522
sections, and may prescribe the form of application to be filed 10523
under this section. 10524

(B) No person shall manufacture or bottle for sale within 10525
this state any soft drink in closed containers unless the person 10526
has a license issued by the director. Upon receipt of an 10527
application for such a license, the director shall examine the 10528
products and the place of manufacture where the business is to be 10529
conducted, to determine whether the products and place comply with 10530
sections 913.22 to 913.28 of the Revised Code. Upon finding there 10531
is compliance, and upon payment of a license fee of ~~one~~ two 10532
hundred dollars, the director shall issue a license authorizing 10533
the applicant to manufacture or bottle for sale such soft drinks, 10534
subject to sections 913.22 to 913.28 of the Revised Code. The 10535
license shall expire on the last day of March of each year unless 10536
renewed. 10537

(C) No soft drink that is manufactured or bottled out of the 10538
state shall be sold or offered for sale within this state unless 10539
the soft drink and the plant in which the soft drink is 10540
manufactured or bottled are found by the director to comply with 10541
sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 10542
registered by the director, which shall be upon a like application 10543
as provided in division (B) of this section. 10544

An annual registration fee of ~~one~~ two hundred dollars shall 10545
be paid to the director by each applicant under this division. The 10546
registration shall be renewed annually, and the registration fee 10547
paid with the application for annual renewal. 10548

Registration of out-of-state soft drink manufacturers or 10549
bottlers or syrup and extract manufacturers is not required if a 10550
reciprocal agreement is in effect whereby a soft drink 10551
manufacturer or bottler or syrup and extract manufacturer located 10552

in this state is not subject to a license or registration fee by 10553
another state or a political subdivision thereof. 10554

(D) No person, other than a manufacturer or bottler holding a 10555
soft drink plant license under this section, shall sell, offer for 10556
sale, use, or have in the person's possession with intent to sell, 10557
any soda water syrup or extract or soft drink syrup, to be used in 10558
making, drawing, or dispensing soda water or other soft drinks, 10559
without first registering the person's name and address, the name 10560
and address of the manufacturer of the syrup or extract, the 10561
number and variety of such syrups or extracts intended to be sold, 10562
and the trade name or brand of those products, with the director, 10563
together with such samples of the syrups or extracts as the 10564
director requests for analysis. The person also shall pay to the 10565
department of agriculture at the time of making registration a 10566
license fee of ~~fifty~~ one hundred dollars. No license shall be 10567
granted by the director unless the director determines that the 10568
syrup or extract is free from all harmful drugs and other 10569
ingredients that, as used, may be injurious to health. The 10570
registration shall be renewed annually upon like terms. If any 10571
manufacturer, bottler, agent, or seller is licensed or has 10572
registered the manufacturer's, bottler's, agent's, or seller's 10573
name and product as required by this section and has paid the 10574
manufacturer's, bottler's, agent's, or seller's fee, the 10575
manufacturer's, bottler's, agent's, or seller's distributor, 10576
retail agent, or retail seller using the products shall not be 10577
required to pay that fee. This section does not apply to local 10578
sellers of soft drinks as to syrups and extracts made by 10579
themselves for their own use exclusively. 10580

(E) All moneys received under sections 913.22 to 913.28 of 10581
the Revised Code shall be deposited with the treasurer of state to 10582
the credit of the food safety fund created in section 915.24 of 10583
the Revised Code. 10584

(F) The director may revoke any license or registration 10585
issued under sections 913.22 to 913.28 of the Revised Code, 10586
whenever the director determines that those sections have been 10587
violated. When a license has been revoked, the licensee shall 10588
discontinue the manufacture and sale of soft drinks or other 10589
products for which the license was issued. When a registration has 10590
been revoked, the registrant shall discontinue the sale within 10591
this state of the registrant's products until those sections have 10592
been complied with and a new license or registration has been 10593
issued. The director may suspend any such license or registration 10594
temporarily, pending compliance with such conditions required by 10595
those sections as the director prescribes. 10596

Sec. 915.02. No person, firm, or corporation shall operate a 10597
cold-storage warehouse, for hire, without a license issued by the 10598
director of agriculture. ~~Such~~ A license shall be issued only on 10599
written application stating the location of ~~such~~ the warehouse. 10600
Upon receipt of the application the director shall cause an 10601
examination to be made into the sanitary conditions of ~~such~~ the 10602
warehouse. If it is found to be in a sanitary condition and 10603
properly equipped for the purpose of cold storage, the director 10604
shall cause a license to be issued authorizing the applicant to 10605
operate a warehouse. No license shall be issued until the 10606
applicant has paid to the director the sum of ~~one~~ two hundred 10607
dollars. ~~Such~~ A license shall be valid until the last day of March 10608
of each year and becomes invalid on that date unless renewed. A 10609
license shall be required for each separate warehouse building. 10610

Sec. 915.16. The license fee for an establishment is 10611
~~twenty-five~~ fifty dollars. Any operator operating in connection 10612
with a cold-storage warehouse holding a license under section 10613
915.02 of the Revised Code is not required to secure an additional 10614
license under section 915.15 of the Revised Code so long as ~~he~~ the 10615

operator continues to be licensed as a cold-storage warehouse; but 10616
he the operator shall comply with sections 915.14 to 915.24, 10617
~~inclusive~~, of the Revised Code, and all rules and regulations 10618
promulgated thereunder. The license issued shall be in such form 10619
as the department of agriculture prescribes. Licenses shall be 10620
valid until the last day of November following initial issuance or 10621
renewal and shall become invalid on that date unless renewed. The 10622
original license or a certified copy thereof shall be 10623
conspicuously displayed by the operator in the establishment. 10624

Sec. 915.24. (A) There is hereby created in the state 10625
treasury the food safety fund. All of the following moneys shall 10626
be credited to the fund: 10627

(1) Bakery registration fees and fines received under 10628
sections 911.02 to 911.20 of the Revised Code; 10629

(2) Cannery license fees and renewal fees received under 10630
sections 913.01 to 913.05 of the Revised Code; 10631

(3) Moneys received under sections 913.22 to 913.28 of the 10632
Revised Code; 10633

(4) License fees, fines, and penalties recovered for the 10634
violation of sections 915.01 to 915.12 of the Revised Code; 10635

(5) License fees collected under sections 915.14 to 915.23 of 10636
the Revised Code; 10637

(6) License fees, other fees, and fines collected by or for 10638
the director of agriculture under Chapter 3717. of the Revised 10639
Code; 10640

(7) Fees collected under section 3715.04 of the Revised Code 10641
for the issuance of certificates of health and freesale. 10642

(B) The director of agriculture shall use the moneys 10643
deposited into the food safety fund to administer and enforce the 10644
laws pursuant to which the moneys were collected. 10645

Sec. 921.02. (A) No person shall distribute a pesticide 10646
within this state unless the pesticide is registered with the 10647
director of agriculture under this chapter. Registrations shall be 10648
issued for a period of time established by rule and shall be 10649
renewed in accordance with deadlines established by rule. 10650
Registration is not required if a pesticide is shipped from one 10651
plant or warehouse to another plant or warehouse operated by the 10652
same person and used solely at that plant or warehouse as a 10653
constituent part to make a pesticide that is registered under this 10654
chapter, or if the pesticide is distributed under the provisions 10655
of an experimental use permit issued under section 921.03 of the 10656
Revised Code or an experimental use permit issued by the United 10657
States environmental protection agency. 10658

(B) The applicant for registration of a pesticide shall file 10659
a statement with the director on a form provided by the director, 10660
which shall include all of the following: 10661

(1) The name and address of the applicant and the name and 10662
address of the person whose name will appear on the label, if 10663
other than the applicant's name; 10664

(2) The brand and product name of the pesticide; 10665

(3) Any necessary information required for completion of the 10666
department of agriculture's application for registration, 10667
including the agency registration number; 10668

(4) A complete copy of the labeling accompanying the 10669
pesticide and a statement of all claims to be made for it, 10670
including the directions for use and the use classification as 10671
provided for in the federal act. 10672

(C) The director, when the director considers it necessary in 10673
the administration of this chapter, may require the submission of 10674
the complete formula of any pesticide including the active and 10675

inert ingredients. 10676

(D) The director may require a full description of the tests 10677
made and the results thereof upon which the claims are based for 10678
any pesticide. The director shall not consider any data submitted 10679
in support of an application, without permission of the applicant, 10680
in support of any other application for registration unless the 10681
other applicant first has offered to pay reasonable compensation 10682
for producing the test data to be relied upon and the data are not 10683
protected from disclosure by section 921.04 of the Revised Code. 10684
In the case of a renewal of registration, a statement shall be 10685
required only with respect to information that is different from 10686
that furnished when the pesticide was registered or last 10687
registered. 10688

(E) The director may require any other information to be 10689
submitted with an application. 10690

Any applicant may designate any portion of the required 10691
registration information as a trade secret or confidential 10692
business information. Upon receipt of any required registration 10693
information designated as a trade secret or confidential business 10694
information, the director shall consider the designated 10695
information as confidential and shall not reveal or cause to be 10696
revealed any such designated information without the consent of 10697
the applicants, except to persons directly involved in the 10698
registration process described in this section or as required by 10699
law. 10700

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay 10701
a registration and inspection fee ~~established by rule of one~~ 10702
hundred fifty dollars for each product name and brand registered 10703
for the company whose name appears on the label. If an applicant 10704
files for a renewal of registration after the deadline established 10705
by rule, the applicant shall pay a penalty fee ~~established by rule~~ 10706

of seventy-five dollars for each product name and brand registered 10707
for the applicant. The penalty fee shall be added to the original 10708
fee and paid before the renewal registration is issued. In 10709
addition to any other remedy available under this chapter, if a 10710
pesticide that is not registered pursuant to this section is 10711
distributed within this state, the person required to register the 10712
pesticide shall do so and shall pay a penalty fee ~~established by~~ 10713
rule of seventy-five dollars for each product name and brand 10714
registered for the applicant. The penalty fee shall be added to 10715
the original fee of one hundred fifty dollars and paid before the 10716
registration is issued. 10717

(G) Provided that the state is authorized by the 10718
administrator of the United States environmental protection agency 10719
to register pesticides to meet special local needs, the director 10720
shall require the information set forth under divisions (B), (C), 10721
(D), and (E) of this section and shall register any such pesticide 10722
after determining that all of the following conditions are met: 10723

(1) Its composition is such as to warrant the proposed claims 10724
for it. 10725

(2) Its labeling and other material required to be submitted 10726
comply with the requirements of the federal act and of this 10727
chapter, and rules adopted thereunder. 10728

(3) It will perform its intended function without 10729
unreasonable adverse effects on the environment. 10730

(4) When used in accordance with widespread and commonly 10731
recognized practice, it will not generally cause unreasonable 10732
adverse effects on the environment. 10733

(5) The classification for general or restricted use is in 10734
conformity with the federal act. 10735

The director shall not make any lack of essentiality a 10736
criterion for denying the registration of any pesticide. When two 10737

pesticides meet the requirements of division (G) of this section, 10738
the director shall not register one in preference to the other. 10739

(H)(1) The director may refuse to register a pesticide if the 10740
application for registration fails to comply with this section. 10741

(2) The director may suspend or revoke a pesticide 10742
registration after a hearing in accordance with Chapter 119. of 10743
the Revised Code for a pesticide that fails to meet the claims 10744
made for it on its label. 10745

(3) The director may immediately suspend a pesticide 10746
registration, prior to a hearing, when the director believes that 10747
the pesticide poses an immediate hazard to human or animal health 10748
or a hazard to the environment. Not later than fifteen days after 10749
suspending the registration, the director shall determine whether 10750
the pesticide poses such a hazard. If the director determines that 10751
no hazard exists, the director shall lift the suspension of the 10752
registration. If the director determines that a hazard exists, the 10753
director shall revoke the registration in accordance with Chapter 10754
119. of the Revised Code. 10755

Sec. 921.16. (A) The director of agriculture shall adopt 10756
rules the director determines necessary for the effective 10757
enforcement and administration of this chapter. The rules may 10758
relate to, but are not limited to, the time, place, manner, and 10759
methods of application, materials, and amounts and concentrations 10760
of application of pesticides, may restrict or prohibit the use of 10761
pesticides in designated areas during specified periods of time, 10762
and shall encompass all reasonable factors that the director 10763
determines necessary to minimize or prevent damage to the 10764
environment. In addition, the rules shall establish the ~~fees,~~ 10765
~~deadlines,~~ and time periods for registration, registration 10766
renewal, late registration renewal, and failure to register under 10767
section 921.02 of the Revised Code; the fees for registration, 10768

registration renewal, late registration renewal, and failure to 10769
register under section 921.02 of the Revised Code that shall apply 10770
until the fees that are established under that section take effect 10771
on January 1, 2007; and the fees, deadlines, and time periods for 10772
licensure and license renewal under sections 921.06, 921.09, 10773
921.11, and 921.13 of the Revised Code. ~~The aggregate amount of~~ 10774
~~the fees that initially are established by rule after the~~ 10775
~~effective date of this amendment shall be designed to cover, but~~ 10776
~~not exceed, the costs incurred by the department of agriculture in~~ 10777
~~administering this chapter. Thereafter, the fees shall not be~~ 10778
~~increased without the approval of the general assembly.~~ 10779

(B) The director shall adopt rules that establish a schedule 10780
of civil penalties for violations of this chapter, or any rule or 10781
order adopted or issued under it, provided that the civil penalty 10782
for a first violation shall not exceed five thousand dollars and 10783
the civil penalty for each subsequent violation shall not exceed 10784
ten thousand dollars. In determining the amount of a civil penalty 10785
for a violation, the director shall consider factors relevant to 10786
the severity of the violation, including past violations and the 10787
amount of actual or potential damage to the environment or to 10788
human beings. 10789

(C) The director shall adopt rules that set forth the 10790
conditions under which the director: 10791

(1) Requires that notice or posting be given of a proposed 10792
application of a pesticide; 10793

(2) Requires inspection, condemnation, or repair of equipment 10794
used to apply a pesticide; 10795

(3) Will suspend, revoke, or refuse to issue any pesticide 10796
registration for a violation of this chapter; 10797

(4) Requires safe handling, transportation, storage, display, 10798

distribution, and disposal of pesticides and their containers;	10799
(5) Ensures the protection of the health and safety of	10800
agricultural workers storing, handling, or applying pesticides,	10801
and all residents of agricultural labor camps, as that term is	10802
defined in section 3733.41 of the Revised Code, who are living or	10803
working in the vicinity of pesticide-treated areas;	10804
(6) Requires a record to be kept of all pesticide	10805
applications made by each commercial applicator and by any trained	10806
serviceperson acting under the commercial applicator's direct	10807
supervision and of all restricted use pesticide applications made	10808
by each private applicator and by any immediate family member or	10809
subordinate employee of that private applicator who is acting	10810
under the private applicator's direct supervision as required	10811
under section 921.14 of the Revised Code;	10812
(7) Determines the pesticide-use categories of diagnostic	10813
inspections that must be conducted by a commercial applicator;	10814
(8) Requires a record to be kept of all diagnostic	10815
inspections conducted by each commercial applicator and by any	10816
trained service person.	10817
(D) The director shall prescribe standards for the licensure	10818
of applicators of pesticides consistent with those prescribed by	10819
the federal act and the regulations adopted under it or prescribe	10820
standards that are more restrictive than those prescribed by the	10821
federal act and the regulations adopted under it. The standards	10822
may relate to the use of a pesticide or to an individual's	10823
pesticide-use category.	10824
The director shall take into consideration standards of the	10825
United States environmental protection agency.	10826
(E) The director may adopt rules setting forth the conditions	10827
under which the director will:	10828

(1) Collect and examine samples of pesticides or devices;	10829
(2) Specify classes of devices that shall be subject to this chapter;	10830 10831
(3) Prescribe other necessary registration information.	10832
(F) The director may adopt rules that do either or both of the following:	10833 10834
(1) Designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use;	10835 10836 10837 10838 10839
(2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q)(1) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.	10840 10841 10842 10843 10844 10845 10846 10847 10848 10849 10850 10851 10852
(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is inconsistent with the requirements of the federal act and regulations adopted thereunder.	10853 10854 10855 10856
(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than	10857 10858

human beings and other than bacteria, viruses, and other
microorganisms on or in living human beings or other living
animals, that is injurious to health or the environment. 10859
10860
10861

(I) The director may make reports to the United States
environmental protection agency, in the form and containing the
information the agency may require. 10862
10863
10864

(J) The director shall adopt rules for the application, use,
storage, and disposal of pesticides if, in the director's
judgment, existing programs of the United States environmental
protection agency necessitate such rules or pesticide labels do
not sufficiently address issues or situations identified by the
department of agriculture or interested state agencies. 10865
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10867
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(K) The director shall adopt rules establishing all of the
following: 10871
10872

(1) Standards, requirements, and procedures for the
examination and re-examination of commercial applicators and
private applicators; 10873
10874
10875

(2) With respect to training programs that the director may
require commercial applicators and private applicators to
complete: 10876
10877
10878

(a) Standards and requirements that a training program must
satisfy in order to be offered by the director or the director's
representative or in order to be approved by the director if a
third party wishes to offer it; 10879
10880
10881
10882

(b) Eligibility standards and requirements that must be
satisfied by third parties who wish to provide the training
programs; 10883
10884
10885

(c) Procedures that third parties must follow in order to
submit a proposed training program to the director for approval; 10886
10887

(d) Criteria that the director must consider when determining 10888

whether to authorize a commercial applicator or private applicator 10889
to participate in a training program instead of being required to 10890
pass a re-examination. 10891

(3) Training requirements for a trained serviceperson. 10892

(L) The director shall adopt all rules under this chapter in 10893
accordance with Chapter 119. of the Revised Code. 10894

Sec. 923.44. (A)(1) Except as otherwise provided in divisions 10895
(A)(2), (3), and (4) of this section, the first distributor of a 10896
commercial feed shall pay the director of agriculture a semiannual 10897
inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with 10898
a minimum payment of ~~ten~~ twenty-five dollars, on all commercial 10899
feeds distributed by ~~him~~ the first distributor in this state. 10900

(2) The semiannual inspection fee required under division 10902
(A)(1) of this section shall not be paid by the first distributor 10903
of a commercial feed if the distribution is made to an exempt 10904
buyer who shall be responsible for the fee. The director shall 10905
establish an exempt list consisting of those buyers who are 10906
responsible for the fee. 10907

(3) The semiannual inspection fee shall not be paid on a 10908
commercial feed if the fee has been paid by a previous 10909
distributor. 10910

(4) The semiannual inspection fee shall not be paid on 10911
customer-formula feed if the fee has been paid on the commercial 10912
feeds ~~which~~ that are used as components in that customer-formula 10913
feed. 10914

(B) Each distributor or exempt buyer who is required to pay a 10915
fee under division (A)(1) or (2) of this section shall file a 10916
semiannual statement with the director that includes the number of 10917
net tons of commercial feed distributed by ~~him~~ the distributor or 10918

exempt buyer in this state, within thirty days after the thirtieth 10919
day of June and within thirty days after the thirty-first day of 10920
December, respectively, of each calendar year. 10921

The inspection fee at the rate stated in division (A)(1) of 10922
this section shall accompany the statement. For a tonnage report 10923
that is not filed or payment of inspection fees that is not made 10924
within fifteen days after the due date, a penalty of ten per cent 10925
of the amount due, with a minimum penalty of fifty dollars shall 10926
be assessed against the distributor or exempt buyer. The amount of 10927
fees due, plus penalty, shall constitute a debt and become the 10928
basis of a judgment against the distributor or exempt buyer. 10929

(C) No information furnished under this section shall be 10930
disclosed by an employee of the department of agriculture in such 10931
a way as to divulge the operation of any person required to make 10932
such a report. 10933

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at~~ 10934
~~least~~ annually in such form as ~~he~~ the director considers proper: 10935
10936

(A) Information concerning the sale of commercial feed, 10937
including any production and use data ~~he~~ the director considers 10938
advisable, provided that the data does not disclose the operation 10939
of any manufacturer or distributor; 10940

(B) A comparison of the analyses of official samples of 10941
commercial feeds distributed in this state with the guaranteed 10942
analyses on the label. 10943

Sec. 923.46. All moneys collected by the director of 10944
agriculture under sections 923.41 to 923.55 of the Revised Code 10945
shall be deposited into the state treasury to the credit of the 10946
commercial feed, fertilizer, seed, and lime inspection and 10947
laboratory fund created in section 905.38 of the Revised Code. 10948

~~Money credited to the fund shall be used only for administering 10949~~
~~and enforcing this chapter and Chapter 905. of the Revised Code 10950~~
~~and rules adopted under them. 10951~~

The director shall prepare and provide a report concerning 10952
the fund in accordance with section 905.381 of the Revised Code. 10953

Sec. 927.69. To effect the purpose of sections 927.51 to 10964
927.74 of the Revised Code, the director of agriculture or the 10965
director's authorized representative may: 10966

(A) Make reasonable inspection of any premises in this state 10967
and any property therein or thereon; 10968

(B) Stop and inspect in a reasonable manner, any means of 10969
conveyance moving within this state upon probable cause to believe 10970
it contains or carries any pest, host, commodity, or other article 10971
that is subject to sections 927.51 to 927.72 of the Revised Code; 10972

(C) Conduct inspections of agricultural products that are 10973
required by other states, the United States department of 10974
agriculture, other federal agencies, or foreign countries to 10975
determine whether the products are infested. If, upon making such 10976
an inspection, the director or the director's authorized 10977
representative determines that an agricultural product is not 10978
infested, the director or the director's authorized representative 10979
may issue a certificate, as required by other states, the United 10980
States department of agriculture, other federal agencies, or 10981
foreign countries, indicating that the product is not infested. 10982

If the director charges fees for any of the certificates, 10983
agreements, or inspections specified in this section, the fees 10984
shall be as follows: 10985

(1) Phyto sanitary certificates, twenty-five dollars; 10986

(2) Compliance agreements, twenty dollars; 10987

(3) Solid wood packing certificates, twenty dollars; 10988

(4) Agricultural products and their conveyances inspections, 10989
sixty five dollars an amount equal to the hourly rate of pay in 10990
the highest step in the pay range, including fringe benefits, of a 10991
plant pest control specialist multiplied by the number of hours 10992
worked by such a specialist in conducting an inspection. 10993

The director may adopt rules under section 927.52 of the 10994
Revised Code that define the certificates, agreements, and 10995
inspections. 10996

The fees shall be deposited into the state treasury to the 10997
credit of the pesticide program fund created in Chapter 921. of 10998
the Revised Code. Money credited to the fund shall be used to pay 10999
the costs incurred by the department of agriculture in 11000
administering this chapter, including employing a minimum of two 11001
additional inspectors. 11002

Sec. 1327.511. All money collected under section 1327.50 of 11003
the Revised Code for services rendered by the department of 11004
agriculture in operating the type evaluation program shall be 11005
deposited in the state treasury to the credit of the metrology and 11006
scale certification fund, which is hereby created. Money credited 11007
to the fund shall be used to pay operating costs incurred by the 11008
department in administering the program. 11009

Sec. 1327.62. Whenever the director of agriculture, or ~~his~~ 11010
the director's designee, has cause to believe that any person has 11011
violated, or is violating, section 1327.54 ~~or~~ 1327.61, or 1327.70 11012
of the Revised Code, ~~he~~ the director, or ~~his~~ the director's 11013
designee, may conduct a hearing in accordance with Chapter 119. of 11014
the Revised Code to determine whether a violation has occurred. If 11015
the director or ~~his~~ the director's designee determines that the 11016
person has violated or is violating section 1327.54 ~~or~~ 1327.61, 11017
or 1327.70 of the Revised Code, ~~he~~ the director or the director's 11018

designee may assess a civil penalty against the person. The person 11019
is liable for a civil penalty of not more than five hundred 11020
dollars for a first violation; for a second violation the person 11021
is liable for a civil penalty of not more than two thousand five 11022
hundred dollars; for each subsequent violation that occurs within 11023
five years after the second violation, the person is liable for a 11024
civil penalty of not more than ten thousand dollars. 11025

Any person assessed a civil penalty under this section shall 11026
pay the amount prescribed to the department of agriculture. The 11027
department shall remit all moneys collected under this section to 11028
the treasurer of state for deposit in the general revenue fund. 11029

Sec. 1327.70. (A) As used in this section: 11030

(1) "Large capacity scale" includes the following: 11031

(a) Vehicle and axle-load scales used by law enforcement 11032
personnel in the enforcement of load limits on highways together 11033
with commercial railway, vehicle, and livestock scales. 11034
Descriptions of these types of scales are included in national 11035
institute of standards and technology handbook 44 or its 11036
supplements and revisions, as referred to in section 1327.49 of 11037
the Revised Code. 11038

(b) Any other scales designated in rules adopted under this 11039
section. 11040

(2) "Large meter" includes the following: 11041

(a) Commercially used rack meters, vehicle tank meters, and 11042
liquefied petroleum gas truck mounted meters. Descriptions of 11043
these types of meters are included in national institute of 11044
standards and technology handbook 44 or its supplements and 11045
revisions, as referred to in section 1327.49 of the Revised Code. 11046

(b) Any other meters designated in rules adopted under this 11047
section. 11048

(B) On and after September 1, 2005, no person shall operate a large capacity scale or a large meter in this state unless the operator holds a valid permit issued by the director of agriculture or the director's designee for the scale or meter. A person who wishes to operate a large capacity scale or a large meter in this state shall file a permit application with the director on a form that the director prescribes and provides. The applicant shall include on the application any information solicited by the form and include with it a fee of two hundred fifty dollars.

(C) Upon receipt of a completed permit application and payment of the required permit fee, the director or the director's designee shall issue to the applicant a permit to operate the large capacity scale or large meter that is the subject of the application. A permit issued under this section expires on the thirtieth day of June following its issuance and may be renewed annually on or before the first day of July upon payment of a renewal fee in the amount of two hundred fifty dollars.

(D) The director may adopt rules in accordance with Chapter 119. of the Revised Code that designate additional types of scales and meters to be included in the definitions of "large capacity scale" and "large meter," respectively, or that provide a more detailed explanation of terms initially included in those definitions by statute.

Sec. 1327.71. There is hereby created in the state treasury the weights and measures permit fund. The director of agriculture shall deposit permit and renewal fees collected under section 1327.70 of the Revised Code into the state treasury to the credit of the fund. The director may use money in the fund to pay costs associated with the programs administered by the department of agriculture involving weights and measures.

Sec. 1327.99. Whoever violates section 1327.54 ~~or~~, division 11080
(A), (B), (C), or (D) of section 1327.61, or section 1327.70 of 11081
the Revised Code is guilty of a misdemeanor of the second degree 11082
on a first offense; on each subsequent offense within seven years 11083
after the first offense, ~~such~~ the person is guilty of a 11084
misdemeanor of the first degree. 11085

Sec. 1333.11. As used in sections 1333.11 to 1333.21 of the 11086
Revised Code: 11087

(A) "Cost to the retailer" means the invoice cost of 11088
cigarettes to the retailer, or the replacement cost of cigarettes 11089
to the retailer within thirty days prior to the date of sale, in 11090
the quantity last purchased, whichever is lower, less all trade 11091
discounts except customary discounts for cash, to which shall be 11092
added the cost of doing business by the retailer as evidenced by 11093
the standards and the methods of accounting regularly employed by 11094
the retailer in the retailer's allocation of overhead costs and 11095
expenses, paid or incurred. "Cost to the retailer" must include, 11096
without limitation, labor, including salaries of executives and 11097
officers, rent, depreciation, selling costs, maintenance of 11098
equipment, delivery costs, all types of licenses, insurance, 11099
advertising, and taxes, exclusive of county cigarette taxes paid 11100
or payable on the cigarettes. Where the sale to the retailer is on 11101
a cash and carry basis, the cartage to the retail outlet, if 11102
performed or paid for by the retailer, shall be added to the 11103
invoice cost of the cigarettes to the retailer. In the absence of 11104
proof of a lesser or higher cost by the retailer, the cartage cost 11105
shall be three-fourths of one per cent of the invoice cost of the 11106
cigarettes to the retailer, not including the amount added thereto 11107
by the wholesaler for the face value of state and county cigarette 11108
tax stamps affixed to each package of cigarettes. 11109

(B) In the absence of proof of a lesser or higher cost of 11110
doing business by the retailer making the sale, the cost of doing 11111
business to the retailer shall be eight per cent of the invoice 11112
cost of the cigarettes to the retailer exclusive of the face value 11113
of county cigarette taxes paid on the cigarettes or of the 11114
replacement cost of the cigarettes to the retailer within thirty 11115
days prior to the date of sale in the quantity last purchased 11116
exclusive of the face value of county cigarette taxes paid on the 11117
cigarettes, whichever is lower, less all trade discounts except 11118
customary discounts for cash. 11119

(C) "Cost to the wholesaler" means the invoice cost of the 11120
cigarettes to the wholesaler, or the replacement cost of the 11121
cigarettes to the wholesaler within thirty days prior to the date 11122
of sale, in the quantity last purchased, whichever is lower, less 11123
all trade discounts except customary discounts for cash, to which 11124
shall be added a wholesaler's markup to cover in part the cost of 11125
doing business, which wholesaler's markup, in the absence of proof 11126
of a lesser or higher cost of doing business by the wholesaler as 11127
evidenced by the standards and methods of accounting regularly 11128
employed by the wholesaler in the wholesaler's allocation of 11129
overhead costs and expenses, paid or incurred, including without 11130
limitation, labor, salaries of executives and officers, rent, 11131
depreciation, selling costs, maintenance of equipment, delivery, 11132
delivery costs, all types of licenses, taxes, insurance, and 11133
advertising, shall be three and five-tenths per cent of such 11134
invoice cost of the cigarettes to the wholesaler, to which shall 11135
be added the full face value of state and county cigarette tax 11136
stamps affixed by the wholesaler to each package of cigarettes, or 11137
of the replacement cost of the cigarettes to the wholesaler within 11138
thirty days prior to the date of sale in the quantity last 11139
purchased, whichever is lower, less all trade discounts except 11140
customary discounts for cash. Where the sale by the wholesaler to 11141

the retailer is on a cash and carry basis, the wholesaler may, in 11142
the absence of proof of a lesser or higher cost, allow to the 11143
retailer an amount not to exceed three-fourths of one per cent of 11144
the "cost to the wholesaler" excluding the amount added thereto 11145
for the face value of state and county cigarette tax stamps 11146
affixed to each package of cigarettes. 11147

(D) Any person licensed to sell cigarettes as both a 11148
wholesaler and a retailer, who does sell cigarettes at retail, 11149
shall, in determining "cost to the retailer", first compute "cost 11150
to the wholesaler" as provided in division (C) of this section; 11151
that "cost to the wholesaler" shall then be used in lieu of the 11152
lower of either invoice cost or replacement cost less all trade 11153
discounts except customary discounts for cash in computing "cost 11154
to the retailer" as provided in divisions (A) and (B) of this 11155
section. 11156

(E) In all advertisements, offers for sale, or sales 11157
involving two or more items at a combined price and in all 11158
advertisements, offers for sale, or sales involving the giving of 11159
any concession of any kind, whether it be coupons or otherwise, 11160
the retailer's or wholesaler's selling price shall not be below 11161
the "cost to the retailer" or the "cost to wholesaler", 11162
respectively, of all articles, products, commodities, and 11163
concessions included in such transactions. 11164

(F)(1) "Sell at retail," "sales at retail," and "retail 11165
sales" include any transfer of title to tangible personal property 11166
for a valuable consideration made, in the ordinary course of trade 11167
or usual prosecution of the seller's business, to the purchaser 11168
for consumption or use. 11169

(2) "Sell at wholesale," "sales at wholesale," and "wholesale 11170
sales" include any such transfer of title to tangible personal 11171
property for the purpose of resale. 11172

(G) "Retailer" includes any person who is permitted to sell 11173
cigarettes at retail within this state under section 5743.15 of 11174
the Revised Code. 11175

(H) "Wholesaler" includes any person who is permitted to sell 11176
cigarettes at wholesale within this state under that section. 11177

(I) "Person" includes individuals, corporations, 11178
partnerships, associations, joint-stock companies, business 11179
trusts, unincorporated organizations, receivers, or trustees. 11180

(J) "County cigarette taxes" means the taxes levied under 11181
section 5743.021, 5743.024, or 5743.026 of the Revised Code. 11182

Sec. 1502.02. (A) There is hereby created in the department 11183
of natural resources the division of recycling and litter 11184
prevention to be headed by the chief of recycling and litter 11185
prevention. 11186

(B) There is hereby created in the state treasury the 11187
recycling and litter prevention fund, consisting of moneys 11188
distributed to it from fees, including the fee levied under 11189
division (A)(3) of section 3734.901 of the Revised Code, gifts, 11190
donations, grants, reimbursements, and other sources, including 11191
investment earnings. 11192

(C) The chief of recycling and litter prevention shall do all 11193
of the following: 11194

(1) Use moneys credited to the fund exclusively for the 11195
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 11196
the Revised Code, with particular emphasis on programs relating to 11197
recycling; 11198

(2) Expend for administration of the division not more than 11199
ten per cent of any fiscal year's appropriation to the division, 11200
excluding the amount assessed to the division for direct and 11201
indirect central support charges; 11202

(3) Require recipients of grants under section 1502.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following:

(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code;

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;

(c) Use any auditing and accounting practices the chief considers necessary regarding the account;

(d) Report to the chief information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;

(e) Use grants received to supplement and not to replace any existing funding for such purposes.

(4) Report to the tax commissioner information the chief receives pursuant to division (C)(3)(d) of this section.

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt

of a request and justification from the district. The county 11233
auditor shall credit such payments to the special fund established 11234
pursuant to section 1515.10 of the Revised Code for the local soil 11235
and water conservation district. The department may make advances 11236
at least quarterly to each district on the basis of the estimated 11237
contribution of the state to each district. Moneys received by 11238
each district shall be expended for the purposes of the district. 11239

For the purpose of providing money to soil and water 11240
conservation districts under this section, there is hereby created 11241
in the state treasury the soil and water conservation district 11242
assistance fund consisting of money credited to it under section 11243
3714.073 of the Revised Code. 11244

Sec. 1517.02. There is hereby created in the department of 11245
natural resources the division of natural areas and preserves, 11246
which shall be administered by the chief of natural areas and 11247
preserves. The chief shall take an oath of office and shall file 11248
in the office of the secretary of state a bond signed by the chief 11249
and by a surety approved by the governor for a sum fixed pursuant 11250
to section 121.11 of the Revised Code. 11251

The chief shall administer a system of nature preserves and 11252
wild, scenic, and recreational river areas. The chief shall 11253
establish a system of nature preserves through acquisition and 11254
dedication of natural areas of state or national significance, 11255
which shall include, but not be limited to, areas ~~which~~ that 11256
represent characteristic examples of Ohio's natural landscape 11257
types and its natural vegetation and geological history. The chief 11258
shall encourage landowners to dedicate areas of unusual 11259
significance as nature preserves, and shall establish and maintain 11260
a registry of natural areas of unusual significance. 11261

The chief may supervise, operate, protect, and maintain wild, 11262
scenic, and recreational river areas, as designated by the 11263

director of natural resources. The chief may cooperate with 11264
federal agencies administering any federal program concerning 11265
wild, scenic, or recreational river areas. 11266

~~The chief may, with the approval of the director, enter into 11267
an agreement with the United States department of commerce under 11268
the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 11269
U.S.C.A. 1451, as amended, for the purpose of receiving grants to 11270
continue the management, operation, research, and programming at 11271
old woman creek national estuarine research reserve. 11272~~

The chief shall do the following: 11273

(A) Formulate policies and plans for the acquisition, use, 11274
management, and protection of nature preserves; 11275

(B) Formulate policies for the selection of areas suitable 11276
for registration; 11277

(C) Formulate policies for the dedication of areas as nature 11278
preserves; 11279

(D) Prepare and maintain surveys and inventories of natural 11280
areas and habitats of rare and endangered species of plants and 11281
animals; 11282

(E) Adopt rules for the use, visitation, and protection of 11283
nature preserves, "natural areas owned or managed through 11284
easement, license, or lease by the department and administered by 11285
the division," and lands owned "or managed through easement, 11286
license, or lease" by the department and administered by the 11287
division ~~which~~ that are within or adjacent to any wild, scenic, or 11288
recreational river area, in accordance with Chapter 119. of the 11289
Revised Code; 11290

(F) Provide facilities and improvements within the state 11291
system of nature preserves that are necessary for their 11292
visitation, use, restoration, and protection and do not impair 11293

their natural character;	11294
(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;	11295 11296 11297
(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;	11298 11299 11300
(I) Establish an appropriate system for marking nature preserves;	11301 11302
(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.	11303 11304 11305 11306
Sec. 1521.062. (A) All dams, dikes, and levees constructed in this state and not exempted by this section or by the chief of the division of water under section 1521.06 of the Revised Code shall be inspected periodically by the chief to , <u>except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall</u> ensure that continued operation and use of the dam, dike, or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:	11307 11308 11309 11310 11311 11312 11313 11314 11315 11316 11317
(1) A dam that is less than ten feet in height and has 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	11318 11319 11320 11321 11322 11323

of the dam. 11324

(2) A dam, regardless of height, that has a storage capacity 11325
of not more than fifteen acre-feet at the elevation of the top of 11326
the dam, as determined by the chief; 11327

(3) A dam, regardless of storage capacity, that is six feet 11328
or less in height, as determined by the chief; 11329

(4) A dam, dike, or levee belonging to a class exempted by 11330
the chief; 11331

(5) A dam, dike, or levee that has been exempted in 11332
accordance with rules adopted under section 1521.064 of the 11333
Revised Code. 11334

(B) In accordance with rules adopted under this section, the 11335
owner of a dam that is in a class of dams that is designated in 11336
the rules for inspection by registered professional engineers 11337
shall obtain the services of a registered professional engineer 11338
who has been approved by the chief to conduct the periodic 11339
inspection of dams pursuant to schedules and other standards and 11340
procedures established in the rules. The registered professional 11341
engineer shall prepare a report of the inspection in accordance 11342
with the rules and provide the inspection report to the dam owner 11343
who shall submit it to the chief. A dam that is designated under 11344
the rules for inspection by a registered professional engineer but 11345
that is not inspected within a five-year period may be inspected 11346
by the chief at the owner's expense. 11347

(C) Intervals between periodic inspections shall be 11348
determined by the chief, but shall not exceed five years. The 11349
chief may use inspection reports prepared for the owner of the 11350
dam, dike, or levee by a registered professional engineer. 11351

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 11352
the chief inspects, the chief shall be furnished furnish a report 11353

of ~~each~~ the inspection ~~and~~ to the owner of the dam, dike, or 11354
levee. With regard to a dam, dike, or levee that has been 11355
inspected, either by the chief or by a registered professional 11356
engineer, and that is the subject of an inspection report prepared 11357
or received by the chief, the chief shall be informed of inform 11358
the owner of any required repairs, maintenance, investigations, 11359
and other remedial and operational measures ~~by the chief~~. The 11360
chief shall order the owner to perform such repairs, maintenance, 11361
investigations, or other remedial or operational measures as ~~he~~ 11362
the chief considers necessary to safeguard life, health, or 11363
property. The order shall permit the owner a reasonable time in 11364
which to perform the needed repairs, maintenance, investigations, 11365
or other remedial measures, and the cost thereof shall be borne by 11366
the owner. All orders of the chief are subject to appeal as 11367
provided in Chapter 119. of the Revised Code. The attorney 11368
general, upon written request of the chief, may bring an action 11369
for an injunction against any person who violates this section or 11370
to enforce an order of the chief made pursuant to this section. 11371

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 11372
maintain, and operate the structure and its appurtenances safely 11373
in accordance with state rules, terms and conditions of permits, 11374
orders, and other requirements issued pursuant to this section or 11375
section 1521.06 of the Revised Code. The owner shall fully and 11376
promptly notify the division of water and other responsible 11377
authorities of any condition ~~which~~ that threatens the safety of 11378
the structure and shall take all necessary actions to safeguard 11379
life, health, and property. 11380

~~(E)~~(F) Before commencing the repair, improvement, alteration, 11381
or removal of a dam, dike, or levee, the owner shall file an 11382
application including plans, specifications, and other required 11383
information with the division and shall secure written approval of 11384
the application by the chief. Emergency actions by the owner 11385

required to safeguard life, health, or property are exempt from 11386
this requirement. The chief may, by rule, define maintenance, 11387
repairs, or other remedial measures of a routine nature ~~which~~ that 11388
are exempt from this requirement. 11389

~~(F)~~(G) The chief may remove or correct, at the expense of the 11390
owner, any unsafe structures found to be constructed or maintained 11391
in violation of this section or section 1521.06 of the Revised 11392
Code. In the case of an owner other than a governmental agency, 11393
the cost of removal or correction of any unsafe structure, 11394
together with a description of the property on which the unsafe 11395
structure is located, shall be certified by the chief to the 11396
county auditor and placed by the county auditor upon the tax 11397
duplicate. This cost is a lien upon the lands from the date of 11398
entry and shall be collected as other taxes and returned to the 11399
division. In the case of an owner that is a governmental agency, 11400
the cost of removal or correction of any unsafe structure shall be 11401
recoverable from the owner by appropriate action in a court of 11402
competent jurisdiction. 11403

~~(G)~~(H) If the condition of any dam, dike, or levee is found, 11404
in the judgment of the chief, to be so dangerous to the safety of 11405
life, health, or property as not to permit time for the issuance 11406
and enforcement of an order relative to repair, maintenance, or 11407
operation, the chief shall employ any of the following remedial 11408
means necessary to protect life, health, and property: 11409

(1) Lower the water level of the lake or reservoir by 11410
releasing water; 11411

(2) Completely drain the lake or reservoir; 11412

(3) Take such other measures or actions as ~~he~~ the chief 11413
considers necessary to safeguard life, health, and property. 11414

The chief shall continue in full charge and control of the 11415
dam, dike, or levee until the structure is rendered safe. The cost 11416

of the remedy shall be recoverable from the owner of the structure 11417
by appropriate action in a court of competent jurisdiction. 11418

~~(H)~~(I) The chief may accept and expend gifts, bequests, and 11419
grants from the United States government or from any other public 11420
or private source and may contract with the United States 11421
government or any other agency or entity for the purpose of 11422
carrying out the dam safety functions set forth in this section 11423
and section 1521.06 of the Revised Code. 11424

(J) In accordance with Chapter 119. of the Revised Code, the 11425
chief shall adopt, and may amend or rescind, rules that do all of 11426
the following: 11427

(1) Designate classes of dams for which dam owners must 11428
obtain the services of a registered professional engineer to 11429
periodically inspect the dams and to prepare reports of the 11430
inspections for submittal to the chief; 11431

(2) Establish standards in accordance with which the chief 11432
must approve or disapprove registered professional engineers to 11433
inspect dams together with procedures governing the approval 11434
process; 11435

(3) Establish schedules, standards, and procedures governing 11436
periodic inspections and standards and procedures governing the 11437
preparation and submittal of inspection reports; 11438

(4) Establish provisions regarding the enforcement of this 11439
section and rules adopted under it. 11440

Sec. 1531.27. The chief of the division of wildlife shall pay 11441
to the treasurers of the several counties wherein lands owned by 11442
the state and administered by the division are ~~situate~~ located an 11443
annual amount determined in the following manner: in each such 11444
county one per cent of the total value of such lands exclusive of 11445
improvements, as shown on the auditor's records of taxable value 11446

of real property existing at the time when the state acquired the 11447
tract or tracts comprising ~~such~~ the lands. 11448

~~Such~~ The payments shall be made from funds accruing to the 11449
division ~~of wildlife~~ from the sale of hunting or fishing licenses 11450
and ~~federal wildlife restoration funds, and the~~ from fines, 11451
penalties, and forfeitures deposited into the state treasury to 11452
the credit of the wildlife fund created in section 1531.17 of the 11453
Revised Code. The allocation of amounts to be paid from ~~such~~ those 11454
sources shall be determined by the director of natural resources. 11455

~~Such~~ The payments to the treasurers of the several counties 11456
shall be credited to the fund for school purposes within the 11457
school districts wherein ~~such~~ the lands are ~~situate~~ located. 11458

Sec. 1533.10. Except as provided in this section or division 11459
(A) (2) of section 1533.12 of the Revised Code, no person shall 11460
hunt any wild bird or wild quadruped without a hunting license. 11461
Each day that any person hunts within the state without procuring 11462
such a license constitutes a separate offense. Except as otherwise 11463
provided in this section, every applicant for a hunting license 11464
who is a resident of the state and ~~sixteen~~ eighteen years of age 11465
or more shall procure a resident hunting license, the fee for 11466
which shall be eighteen dollars, unless the rules adopted under 11467
division (B) of section 1533.12 of the Revised Code provide for 11468
issuance of a resident hunting license to the applicant free of 11469
charge. Except as provided in rules adopted under division (B) (2) 11470
of that section, each applicant who is a resident of this state 11471
and who at the time of application is sixty-six years of age or 11472
older shall procure a special senior hunting license, the fee for 11473
which shall be one-half of the regular hunting license fee. Every 11474
applicant who is under the age of ~~sixteen~~ eighteen years shall 11475
procure a special youth hunting license, the fee for which shall 11476
be one-half of the regular hunting license fee. The owner of lands 11477

in the state and the owner's children of any age and grandchildren 11478
under eighteen years of age may hunt on the lands without a 11479
hunting license. The tenant and children of the tenant, residing 11480
on lands in the state, may hunt on them without a hunting license. 11481
~~Every~~ Except as otherwise provided in division (A)(1) of section 11482
1533.12 of the Revised Code, every applicant for a hunting license 11483
who is a nonresident of the state and who is ~~sixteen~~ eighteen 11484
years of age or older shall procure a nonresident hunting license, 11485
the fee for which shall be one hundred twenty-four dollars, unless 11486
the applicant is a resident of a state that is a party to an 11487
agreement under section 1533.91 of the Revised Code, in which case 11488
the fee shall be eighteen dollars. 11489

The chief of the division of wildlife may issue a small game 11490
hunting license expiring three days from the effective date of the 11491
license to a nonresident of the state, the fee for which shall be 11492
thirty-nine dollars. No person shall take or possess deer, wild 11493
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 11494
animal while possessing only a small game hunting license. A small 11495
game hunting license does not authorize the taking or possessing 11496
of ducks, geese, or brant without having obtained, in addition to 11497
the small game hunting license, a wetlands habitat stamp as 11498
provided in section 1533.112 of the Revised Code. A small game 11499
hunting license does not authorize the taking or possessing of 11500
deer, wild turkeys, or fur-bearing animals. A nonresident of the 11501
state who wishes to take or possess deer, wild turkeys, or 11502
fur-bearing animals in this state shall procure, respectively, a 11503
special deer or wild turkey permit as provided in section 1533.11 11504
of the Revised Code or a fur taker permit as provided in section 11505
1533.111 of the Revised Code in addition to a nonresident hunting 11506
license or a special youth hunting license, as applicable, as 11507
provided in this section. 11508

No person shall procure or attempt to procure a hunting 11509

license by fraud, deceit, misrepresentation, or any false 11510
statement. 11511

This section does not authorize the taking and possessing of 11512
deer or wild turkeys without first having obtained, in addition to 11513
the hunting license required by this section, a special deer or 11514
wild turkey permit as provided in section 1533.11 of the Revised 11515
Code or the taking and possessing of ducks, geese, or brant 11516
without first having obtained, in addition to the hunting license 11517
required by this section, a wetlands habitat stamp as provided in 11518
section 1533.112 of the Revised Code. 11519

This section does not authorize the hunting or trapping of 11520
fur-bearing animals without first having obtained, in addition to 11521
a hunting license required by this section, a fur taker permit as 11522
provided in section 1533.111 of the Revised Code. 11523

No hunting license shall be issued unless it is accompanied 11524
by a written explanation of the law in section 1533.17 of the 11525
Revised Code and the penalty for its violation, including a 11526
description of terms of imprisonment and fines that may be 11527
imposed. 11528

No hunting license shall be issued unless the applicant 11529
presents to the agent authorized to issue the license a previously 11530
held hunting license or evidence of having held such a license in 11531
content and manner approved by the chief, a certificate of 11532
completion issued upon completion of a hunter education and 11533
conservation course approved by the chief, or evidence of 11534
equivalent training in content and manner approved by the chief. 11535

No person shall issue a hunting license to any person who 11536
fails to present the evidence required by this section. No person 11537
shall purchase or obtain a hunting license without presenting to 11538
the issuing agent the evidence required by this section. Issuance 11539
of a hunting license in violation of the requirements of this 11540

section is an offense by both the purchaser of the illegally
obtained hunting license and the clerk or agent who issued the
hunting license. Any hunting license issued in violation of this
section is void.

The chief, with approval of the wildlife council, shall adopt
rules prescribing a hunter education and conservation course for
first-time hunting license buyers and for volunteer instructors.
The course shall consist of subjects including, but not limited
to, hunter safety and health, use of hunting implements, hunting
tradition and ethics, the hunter and conservation, the law in
section 1533.17 of the Revised Code along with the penalty for its
violation, including a description of terms of imprisonment and
fines that may be imposed, and other law relating to hunting.
Authorized personnel of the division or volunteer instructors
approved by the chief shall conduct such courses with such
frequency and at such locations throughout the state as to
reasonably meet the needs of license applicants. The chief shall
issue a certificate of completion to each person who successfully
completes the course and passes an examination prescribed by the
chief.

Sec. 1533.11. (A) Except as provided in this section, no
person shall hunt deer on lands of another without first obtaining
an annual special deer permit. Except as provided in this section,
no person shall hunt wild turkeys on lands of another without
first obtaining an annual special wild turkey permit. Each
applicant for a special deer or wild turkey permit shall pay an
annual fee of twenty-three dollars for each permit unless the
rules adopted under division (B) of section 1533.12 of the Revised
Code provide for issuance of a deer or wild turkey permit to the
applicant free of charge. Except as provided in rules adopted
under division (B)(2) of that section, each applicant who is a

resident of this state and who at the time of application is 11572
sixty-six years of age or older shall procure a special senior 11573
deer or wild turkey permit, the fee for which shall be one-half of 11574
the regular special deer or wild turkey permit fee. Each applicant 11575
who is under the age of ~~sixteen~~ eighteen years shall procure a 11576
special youth deer or wild turkey permit, the fee for which shall 11577
be one-half of the regular special deer or wild turkey permit fee. 11578
Except as provided in division (A)(2) of section 1533.12 of the 11579
Revised Code, a deer or wild turkey permit shall run concurrently 11580
with the hunting license. The money received shall be paid into 11581
the state treasury to the credit of the wildlife fund, created in 11582
section 1531.17 of the Revised Code, exclusively for the use of 11583
the division of wildlife in the acquisition and development of 11584
land for deer or wild turkey management, for investigating deer or 11585
wild turkey problems, and for the stocking, management, and 11586
protection of deer or wild turkey. Every person, while hunting 11587
deer or wild turkey on lands of another, shall carry the person's 11588
special deer or wild turkey permit and exhibit it to any 11589
enforcement officer so requesting. Failure to so carry and exhibit 11590
such a permit constitutes an offense under this section. The chief 11591
of the division of wildlife shall adopt any additional rules the 11592
chief considers necessary to carry out this section and section 11593
1533.10 of the Revised Code. 11594

The owner and the children of the owner of lands in this 11595
state may hunt deer or wild turkey thereon without a special deer 11596
or wild turkey permit. The tenant and children of the tenant may 11597
hunt deer or wild turkey on lands where they reside without a 11598
special deer or wild turkey permit. 11599

(B) A special deer or wild turkey permit is not transferable. 11600
No person shall carry a special deer or wild turkey permit issued 11601
in the name of another person. 11602

(C) The wildlife refunds fund is hereby created in the state 11603

treasury. The fund shall consist of money received from 11604
application fees for special deer permits that are not issued. 11605
Money in the fund shall be used to make refunds of such 11606
application fees. 11607

Sec. 1533.111. Except as provided in this section or division 11608
(A)(2) of section 1533.12 of the Revised Code, no person shall 11609
hunt or trap fur-bearing animals on land of another without first 11610
obtaining an annual fur taker permit. Each applicant for a fur 11611
taker permit shall pay an annual fee of fourteen dollars for the 11612
permit, except as otherwise provided in this section or unless the 11613
rules adopted under division (B) of section 1533.12 of the Revised 11614
Code provide for issuance of a fur taker permit to the applicant 11615
free of charge. Except as provided in rules adopted under division 11616
(B)(2) of that section, each applicant who is a resident of this 11617
state and who at the time of application is sixty-six years of age 11618
or older shall procure a special senior fur taker permit, the fee 11619
for which shall be one-half of the regular fur taker permit fee. 11620
Each applicant ~~who is a resident of the state and~~ under the age of 11621
~~sixteen~~ eighteen years shall procure a special youth fur taker 11622
permit, the fee for which shall be one-half of the regular fur 11623
taker permit fee. The fur taker permit shall run concurrently with 11624
the hunting license. The money received shall be paid into the 11625
state treasury to the credit of the fund established in section 11626
1533.15 of the Revised Code. 11627

No fur taker permit shall be issued unless it is accompanied 11628
by a written explanation of the law in section 1533.17 of the 11629
Revised Code and the penalty for its violation, including a 11630
description of terms of imprisonment and fines that may be 11631
imposed. 11632

No fur taker permit shall be issued unless the applicant 11633
presents to the agent authorized to issue a fur taker permit a 11634

previously held hunting license or trapping or fur taker permit or 11635
evidence of having held such a license or permit in content and 11636
manner approved by the chief of the division of wildlife, a 11637
certificate of completion issued upon completion of a trapper 11638
education course approved by the chief, or evidence of equivalent 11639
training in content and manner approved by the chief. 11640

No person shall issue a fur taker permit to any person who 11641
fails to present the evidence required by this section. No person 11642
shall purchase or obtain a fur taker permit without presenting to 11643
the issuing agent the evidence required by this section. Issuance 11644
of a fur taker permit in violation of the requirements of this 11645
section is an offense by both the purchaser of the illegally 11646
obtained permit and the clerk or agent who issued the permit. Any 11647
fur taker permit issued in violation of this section is void. 11648

The chief, with approval of the wildlife council, shall adopt 11649
rules prescribing a trapper education course for first-time fur 11650
taker permit buyers and for volunteer instructors. The course 11651
shall consist of subjects that include, but are not limited to, 11652
trapping techniques, animal habits and identification, trapping 11653
tradition and ethics, the trapper and conservation, the law in 11654
section 1533.17 of the Revised Code along with the penalty for its 11655
violation, including a description of terms of imprisonment and 11656
fines that may be imposed, and other law relating to trapping. 11657
Authorized personnel of the division of wildlife or volunteer 11658
instructors approved by the chief shall conduct the courses with 11659
such frequency and at such locations throughout the state as to 11660
reasonably meet the needs of permit applicants. The chief shall 11661
issue a certificate of completion to each person who successfully 11662
completes the course and passes an examination prescribed by the 11663
chief. 11664

Every person, while hunting or trapping fur-bearing animals 11665
on lands of another, shall carry the person's fur taker permit 11666

~~affixed to the person's hunting license~~ with the person's 11667
signature written ~~across the face of~~ on the permit. Failure to 11668
carry such a signed permit constitutes an offense under this 11669
section. The chief shall adopt any additional rules the chief 11670
considers necessary to carry out this section. 11671

The owner and the children of the owner of lands in this 11672
state may hunt or trap fur-bearing animals thereon without a fur 11673
taker permit. The tenant and children of the tenant may hunt or 11674
trap fur-bearing animals on lands where they reside without a fur 11675
taker permit. 11676

A fur taker permit is not transferable. No person shall carry 11677
a fur taker permit issued in the name of another person. 11678

A fur taker permit entitles a nonresident to take from this 11679
state fur-bearing animals taken and possessed by the nonresident 11680
as provided by law or division rule. 11681

Sec. 1533.112. Except as provided in this section or unless 11682
otherwise provided by division rule, no person shall hunt ducks, 11683
geese, or brant on the lands of another without first obtaining an 11684
annual wetlands habitat stamp. The annual fee for the wetlands 11685
habitat stamp shall be fourteen dollars for each stamp unless the 11686
rules adopted under division (B) of section 1533.12 provide for 11687
issuance of a wetlands habitat stamp to the applicant free of 11688
charge. 11689

Moneys received from the stamp fee shall be paid into the 11690
state treasury to the credit of the wetlands habitat fund, which 11691
is hereby established. Moneys shall be paid from the fund on the 11692
order of the director of natural resources for the following 11693
purposes: 11694

(A) Sixty per cent for projects that the division approves 11695
for the acquisition, development, management, or preservation of 11696

waterfowl areas within the state; 11697

(B) Forty per cent for contribution by the division to an 11698
appropriate nonprofit organization for the acquisition, 11699
development, management, or preservation of lands and waters 11700
within the United States or Canada that provide or will provide 11701
habitat for waterfowl with migration routes that cross this state. 11702

No moneys derived from the issuance of wetlands habitat 11703
stamps shall be spent for purposes other than those specified by 11704
this section. All investment earnings of the fund shall be 11705
credited to the fund. 11706

Wetlands habitat stamps shall be furnished by and in a form 11707
prescribed by the chief of the division of wildlife and issued by 11708
clerks and other agents authorized to issue licenses and permits 11709
under section 1533.13 of the Revised Code. The record of stamps 11710
kept by the clerks and other agents shall be uniform throughout 11711
the state, in such form or manner as the director prescribes, and 11712
open at all reasonable hours to the inspection of any person. 11713
Unless otherwise provided by rule, each stamp shall remain in 11714
force until midnight of the thirty-first day of August next 11715
ensuing. Wetlands habitat stamps may be issued in any manner to 11716
any person on any date, whether or not that date is within the 11717
period in which they are effective. 11718

Every person to whom this section applies, while hunting 11719
ducks, geese, or brant, shall carry an unexpired wetlands habitat 11720
stamp that is validated by the person's signature written on the 11721
stamp in ink and shall exhibit the stamp to any enforcement 11722
officer so requesting. No person shall fail to carry and exhibit 11723
the person's stamp. 11724

A wetlands habitat stamp is not transferable. 11725

The chief shall establish a procedure to obtain subject 11726
matter to be printed on the wetlands habitat stamp and shall use, 11727

dispose of, or distribute the subject matter as the chief 11728
considers necessary. The chief also shall adopt rules necessary to 11729
administer this section. 11730

This section does not apply to persons under sixteen years of 11731
age nor to persons exempted from procuring a hunting license under 11732
section 1533.10 or division (A)(2) of section 1533.12 of the 11733
Revised Code. 11734

Sec. 1533.12. (A)(1) Except as otherwise provided in division 11735
(A)(2) of this section, every person on active duty in the armed 11736
forces of the United States who is stationed in this state and who 11737
wishes to engage in an activity for which a license, permit, or 11738
stamp is required under this chapter first shall obtain the 11739
requisite license, permit, or stamp. Such a person is eligible to 11740
obtain a resident hunting or fishing license regardless of whether 11741
the person qualifies as a resident of this state. To obtain a 11742
resident hunting or fishing license, the person shall present a 11743
card or other evidence identifying the person as being on active 11744
duty in the armed forces of the United States and as being 11745
stationed in this state. 11746

(2) Every person on active duty in the armed forces of the 11747
United States, while on leave or furlough, may take or catch fish 11748
of the kind lawfully permitted to be taken or caught within the 11749
state, may hunt any wild bird or wild quadruped lawfully permitted 11750
to be hunted within the state, and may trap fur-bearing animals 11751
lawfully permitted to be trapped within the state, without 11752
procuring a fishing license, a hunting license, a fur taker 11753
permit, or a wetlands habitat stamp required by this chapter, 11754
provided that the person shall carry on the person when fishing, 11755
hunting, or trapping, a card or other evidence identifying the 11756
person as being on active duty in the armed forces of the United 11757
States, and provided that the person is not otherwise violating 11758

any of the hunting, fishing, and trapping laws of this state. 11759

In order to hunt deer or wild turkey, any such person shall 11760
obtain a special deer or wild turkey permit, as applicable, under 11761
section 1533.11 of the Revised Code. However, the person need not 11762
obtain a hunting license in order to obtain such a permit. 11763

(B) The chief of the division of wildlife shall provide by 11764
rule adopted under section 1531.10 of the Revised Code all of the 11765
following: 11766

(1) Every resident of this state with a disability that has 11767
been determined by the veterans administration to be permanently 11768
and totally disabling, who receives a pension or compensation from 11769
the veterans administration, and who received an honorable 11770
discharge from the armed forces of the United States, and every 11771
veteran to whom the registrar of motor vehicles has issued a set 11772
of license plates under section 4503.41 of the Revised Code, shall 11773
be issued an annual fishing license, hunting license, fur taker 11774
permit, deer or wild turkey permit, or wetlands habitat stamp, or 11775
any combination of those licenses, permits, and stamp, free of 11776
charge when application is made to the chief in the manner 11777
prescribed by and on forms provided by the chief. 11778

(2) Every resident of the state who was born on or before 11779
December 31, 1937, shall be issued an annual fishing license, 11780
hunting license, fur taker permit, deer or wild turkey permit, or 11781
wetlands habitat stamp, or any combination of those licenses, 11782
permits, and stamp, free of charge when application is made to the 11783
chief in the manner prescribed by and on forms provided by the 11784
chief. 11785

(3) Every resident of state or county institutions, 11786
charitable institutions, and military homes in this state shall be 11787
issued an annual fishing license free of charge when application 11788
is made to the chief in the manner prescribed by and on forms 11789

provided by the chief. 11790

(4) Any mobility impaired or blind person, as defined in 11791
section 955.011 of the Revised Code, who is a resident of this 11792
state and who is unable to engage in fishing without the 11793
assistance of another person shall be issued an annual fishing 11794
license free of charge when application is made to the chief in 11795
the manner prescribed by and on forms provided by the chief. The 11796
person who is assisting the mobility impaired or blind person may 11797
assist in taking or catching fish of the kind permitted to be 11798
taken or caught without procuring the license required under 11799
section 1533.32 of the Revised Code, provided that only one line 11800
is used by both persons. 11801

(5) As used in division (B)(5) of this section, "prisoner of 11802
war" means any regularly appointed, enrolled, enlisted, or 11803
inducted member of the military forces of the United States who 11804
was captured, separated, and incarcerated by an enemy of the 11805
United States. 11806

Any person who has been a prisoner of war, was honorably 11807
discharged from the military forces, and is a resident of this 11808
state shall be issued an annual fishing license, hunting license, 11809
fur taker permit, or wetlands habitat stamp, or any combination of 11810
those licenses, permits, and stamp, free of charge when 11811
application is made to the chief in the manner prescribed by and 11812
on forms provided by the chief. 11813

(C) The chief shall adopt rules pursuant to section 1531.08 11814
of the Revised Code designating not more than two days, which need 11815
not be consecutive, in each year as "free sport fishing days" on 11816
which any resident may exercise the privileges accorded the holder 11817
of a fishing license issued under section 1533.32 of the Revised 11818
Code without procuring such a license, provided that the person is 11819
not otherwise violating any of the fishing laws of this state. 11820

Sec. 1533.32. Except as provided in this section or division 11821
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 11822
including nonresidents, shall take or catch any fish by angling in 11823
any of the waters in the state or engage in fishing in those 11824
waters without a license. No person shall take or catch frogs or 11825
turtles without a valid fishing license, except as provided in 11826
this section. Persons fishing in privately owned ponds, lakes, or 11827
reservoirs to or from which fish are not accustomed to migrate are 11828
exempt from the license requirements set forth in this section. 11829
Persons fishing in privately owned ponds, lakes, or reservoirs 11830
that are open to public fishing through an agreement or lease with 11831
the division of wildlife shall comply with the license 11832
requirements set forth in this section. 11833

The fee for an annual license shall be thirty-nine dollars 11834
for a resident of a state that is not a party to an agreement 11835
under section 1533.91 of the Revised Code. The fee for an annual 11836
license shall be eighteen dollars for a resident of a state that 11837
is a party to such an agreement. The fee for an annual license for 11838
residents of this state shall be eighteen dollars unless the rules 11839
adopted under division (B) of section 1533.12 of the Revised Code 11840
provide for issuance of a resident fishing license to the 11841
applicant free of charge. Except as provided in rules adopted 11842
under division (B)(2) of that section, each applicant who is a 11843
resident of this state and who at the time of application is 11844
sixty-six years of age or older shall procure a special senior 11845
fishing license, the fee for which shall be one-half of the annual 11846
resident fishing license fee. 11847

Any person under the age of sixteen years may take or catch 11848
frogs and turtles and take or catch fish by angling without a 11849
license. 11850

The chief of the division of wildlife may issue a tourist's 11851

license expiring three days from the effective date of the license 11852
to a resident of a state that is not a party to an agreement under 11853
section 1533.91 of the Revised Code. The fee for a tourist's 11854
license shall be eighteen dollars. 11855

The chief shall adopt rules under section 1531.10 of the 11856
Revised Code providing for the issuance of a one-day fishing 11857
license to a resident of this state or of any other state. The fee 11858
for such a license shall be fifty-five per cent of the amount 11859
established under this section for a tourist's license, rounded up 11860
to the nearest whole dollar. A one-day fishing license shall allow 11861
the holder to take or catch fish by angling in the waters in the 11862
state, engage in fishing in those waters, or take or catch frogs 11863
or turtles in those waters for one day without obtaining an annual 11864
license or a tourist's license under this section. At the request 11865
of a holder of a one-day fishing license who wishes to obtain an 11866
annual license, a clerk or agent authorized to issue licenses 11867
under section 1533.13 of the Revised Code, not later than the last 11868
day on which the one-day license would be valid if it were an 11869
annual license, shall credit the amount of the fee paid for the 11870
one-day license toward the fee charged for the annual license if 11871
so authorized by the chief. The clerk or agent shall issue the 11872
annual license upon presentation of the one-day license and 11873
payment of a fee in an amount equal to the difference between the 11874
fee for the annual license and the fee for the one-day license. 11875

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Unless otherwise provided by division rule, each annual 11877
license shall begin on the first day of March of the current year 11878
and expire on the last day of February of the following year. 11879

No person shall alter a fishing license or possess a fishing 11880
license that has been altered. 11881

No person shall procure or attempt to procure a fishing 11882

license by fraud, deceit, misrepresentation, or any false statement. 11883
11884

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. 11885
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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. 11898
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Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters: 11902
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(A) To make alterations and improvements; 11907

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works; 11908
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(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public; 11910
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- (D) ~~To~~ Except as otherwise provided in this section, to 11913
adopt, amend, and rescind, in accordance with Chapter 119. of the 11914
Revised Code, rules necessary for the proper management of state 11915
parks, bodies of water, and the lands adjacent to them under its 11916
jurisdiction and control, including the following: 11917
- (1) Governing opening and closing times and dates of the 11918
parks; 11919
- (2) Establishing fees and charges for ~~admission to state~~ 11920
~~parks and for~~ use of facilities in ~~them~~ state parks; 11921
- (3) Governing camps, camping, and fees for camps and camping; 11922
- (4) Governing the application for and rental of, rental fees 11923
for, and the use of cabins; 11924
- (5) Relating to public use of state park lands, and governing 11925
the operation of motor vehicles, including speeds, and parking on 11926
those lands; 11927
- (6) Governing all advertising within state parks and the 11928
requirements for the operation of places selling tangible personal 11929
property and control of food service sales on lands and waters 11930
under the control of the division, which rules shall establish 11931
uniform requirements; 11932
- (7) Providing uniform standards relating to the size, type, 11933
location, construction, and maintenance of structures and devices 11934
used for fishing or moorage of watercraft, rowboats, sailboats, 11935
and powercraft, as those terms are defined in section 1547.01 of 11936
the Revised Code, over waters under the control of the division 11937
and establishing reasonable fees for the construction of and 11938
annual use permits for those structures and devices; 11939
- (8) Governing state beaches, swimming, inflatable devices, 11940
and fees for them; 11941
- (9) Governing the removal and disposition of any watercraft, 11942

rowboat, sailboat, or powercraft, as those terms are defined in 11943
section 1547.01 of the Revised Code, left unattended for more than 11944
seven days on any lands or waters under the control of the 11945
division; 11946

(10) Governing the establishment and collection of check 11947
collection charges for checks that are returned to the division or 11948
dishonored for any reason. 11949

The division shall adopt rules under this section 11950
establishing a discount program for all persons who are issued a 11951
golden buckeye card under section 173.06 of the Revised Code. The 11952
discount program shall provide a discount for all park services 11953
and rentals, but shall not provide a discount for the purchase of 11954
merchandise. 11955

The division shall not adopt rules establishing fees or 11956
charges for parking a motor vehicle in a state park or for 11957
admission to a state park. 11958

Every resident of this state with a disability that has been 11959
determined by the veterans administration to be permanently and 11960
totally disabling, who receives a pension or compensation from the 11961
veterans administration, and who received an honorable discharge 11962
from the armed forces of the United States, and every veteran to 11963
whom the registrar of motor vehicles has issued a set of license 11964
plates under section 4503.41 of the Revised Code, shall be exempt 11965
from the fees for camping, provided that the resident or veteran 11966
carries in the state park such evidence of the resident's or 11967
veteran's disability as the chief of the division of parks and 11968
recreation prescribes by rule. 11969

Every Unless otherwise provided by division rule, every 11970
resident of this state who is sixty-five years of age or older or 11971
who is permanently and totally disabled and who furnishes evidence 11972
of that age or disability in a manner prescribed by division rule 11973

shall be charged one-half of the regular fee for camping, except 11974
on the weekends and holidays designated by the division. ~~Such a~~ 11975
~~person, and~~ shall not be charged more than ninety per cent of the 11976
regular charges for state recreational facilities, equipment, 11977
services, and food service operations utilized by the person at 11978
any time of year, whether maintained or operated by the state or 11979
leased for operation by another entity. 11980

As used in this section, "food service operations" means 11981
restaurants that are owned by the department of natural resources 11982
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 11983
parks or are part of a state park lodge. "Food service operations" 11984
does not include automatic vending machines, concession stands, or 11985
snack bars. 11986

As used in this section, "prisoner of war" means any 11987
regularly appointed, enrolled, enlisted, or inducted member of the 11988
military forces of the United States who was captured, separated, 11989
and incarcerated by an enemy of the United States. Any person who 11990
has been a prisoner of war, was honorably discharged from the 11991
military forces, and is a resident of this state is exempt from 11992
the fees for camping. To claim this exemption, the person shall 11993
present written evidence in the form of a record of separation, a 11994
letter from one of the military forces of the United States, or 11995
such other evidence as the chief prescribes by rule that satisfies 11996
the eligibility criteria established by this section. 11997

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of 11998
the Revised Code: 11999

(A) "Eligible project" means a project that involves the 12000
acquisition, construction, establishment, reconstruction, 12001
rehabilitation, renovation, enlargement, improvement, equipping, 12002
furnishing, or development of either of the following: 12003

(1) Marine recreational facilities; 12004

(2) Refuge harbors and other projects for the harboring, 12005
mooring, docking, launching, and storing of light draft vessels. 12006

(B) "Marine recreational facilities," "refuge harbors," 12007
"light draft vessels," and "allowable costs" have the meanings 12008
established in rules adopted under section 1547.723 of the Revised 12009
Code. 12010

(C) "Revolving loan program" means the loan program 12011
established under sections 1547.721 to 1547.726 of the Revised 12012
Code. 12013

(D) "State agency" has the same meaning as in section 9.66 of 12014
the Revised Code. 12015

Sec. 1547.722. There is hereby created in the state treasury 12016
the watercraft revolving loan fund consisting of money 12017
appropriated or transferred to it, money received and credited to 12018
the fund under section 1547.726 of the Revised Code, and any 12019
grants, gifts, or contributions of moneys received for deposit to 12020
the credit of the fund. 12021

The director of natural resources shall use money in the 12022
watercraft revolving loan fund for the purpose of making loans 12023
under section 1547.724 of the Revised Code for eligible projects 12024
and taking actions under sections 1547.721 to 1547.726 of the 12025
Revised Code necessary to fulfill that purpose. The director may 12026
establish separate accounts in the fund for particular projects or 12027
otherwise. Income from the investment of money in the fund shall 12028
be credited to the fund, and, if the director so requires, to 12029
particular accounts in the fund. 12030

Sec. 1547.723. (A) The director of natural resources shall 12031
adopt rules under Chapter 119. of the Revised Code that the 12032
director determines to be necessary for the implementation of the 12033
revolving loan program. The rules shall include a definition of 12034

what constitutes "allowable costs" of an eligible project for 12035
purposes of the program together with a definition of "marine 12036
recreational facilities," "refuge harbors," and "light draft 12037
vessels," respectively. 12038

(B) The director may delegate any of the director's duties or 12039
responsibilities under sections 1547.721 to 1547.726 of the 12040
Revised Code to the chief of the division of watercraft. 12041

Sec. 1547.724. (A) With the approval of the controlling 12042
board, and subject to the other applicable provisions of sections 12043
1547.721 to 1547.726 of the Revised Code, the director of natural 12044
resources may lend moneys in the watercraft revolving loan fund to 12045
public or private entities for the purpose of paying the allowable 12046
costs of an eligible project. Loans shall be made under this 12047
division only if the director determines that all of the following 12048
apply: 12049

(1) The project is an eligible project and is economically 12050
sound; 12051

(2) The borrower is unable to finance the necessary allowable 12052
costs through ordinary financial channels upon comparable terms; 12053

(3) The repayment of the loan will be adequately secured by a 12054
mortgage, lien, assignment, or pledge at a level of priority as 12055
the director may require; 12056

(4) The amount of the loan does not exceed ninety per cent of 12057
the total cost of the project. 12058

(B) The determinations of the director under division (A) of 12059
this section shall be conclusive for purposes of the validity of a 12060
loan commitment evidenced by a loan agreement signed by the 12061
director. Further, the director's determinations that a project 12062
constitutes an eligible project and that the costs of such a 12063

project are allowable costs, together with all other 12064
determinations relevant to the project or to an action taken or 12065
agreement entered into under sections 1547.721 to 1547.726 of the 12066
Revised Code shall be conclusive for purposes of the validity and 12067
enforceability of rights of parties arising from actions taken and 12068
agreements entered into under those sections. 12069

(C) The director may take any actions necessary or 12070
appropriate with respect to a loan made under this section, 12071
including facilitating the collection of amounts due on a loan. 12072

Sec. 1547.725. For purposes of the revolving loan program, 12073
the director of natural resources may do any of the following: 12074

(A) Establish fees, charges, rates of interest, times of 12075
payment of interest and principal, and other terms, conditions, 12076
and provisions of and security for loans made from the watercraft 12077
revolving loan fund that the director determines to be appropriate 12078
and in furtherance of the purpose for which the loans are made; 12079

(B) Retain the services of or employ financial consultants, 12080
appraisers, consulting engineers, superintendents, managers, 12081
construction and accounting experts, attorneys, and employees, 12082
agents, and independent contractors that the director determines 12083
to be necessary and fix the compensation for their services; 12084

(C) Receive and accept from any person grants, gifts, 12085
contributions of money, property, labor, and other things of value 12086
to be held, used, and applied only for the purpose for which such 12087
grants, gifts, and contributions are made; 12088

(D) Enter into appropriate agreements with other governmental 12089
entities to provide for all of the following: 12090

(1) Payment of allowable costs related to the development of 12091
eligible projects for which loans have been made from the 12092
watercraft revolving loan fund; 12093

(2) Any governmental action a governmental entity is 12094
authorized to take, including undertaking on behalf and at the 12095
request of the director any action that the director is authorized 12096
to undertake pursuant to sections 1547.721 to 1547.725 of the 12097
Revised Code; 12098

(3) The operation of facilities associated with eligible 12099
projects. 12100

All state agencies shall cooperate with and provide 12101
assistance to the director as is necessary for the administration 12102
of sections 1547.721 to 1547.726 of the Revised Code. 12103

Sec. 1547.726. All money received by the state from the 12104
repayment of loans made from the watercraft revolving loan fund, 12105
including interest, fees, and charges associated with such loans, 12106
shall be deposited to the credit of the watercraft revolving loan 12107
fund. 12108

Sec. 1548.06. (A)(1) Application for a certificate of title 12109
for a watercraft or outboard motor shall be made upon a form 12110
prescribed by the chief of the division of watercraft and shall be 12111
sworn to before a notary public or other officer empowered to 12112
administer oaths. The application shall be filed with the clerk of 12113
any court of common pleas. An application for a certificate of 12114
title may be filed electronically by any electronic means approved 12115
by the chief in any county with the clerk of the court of common 12116
pleas of that county. The application shall be accompanied by the 12117
fee prescribed in section 1548.10 of the Revised Code. The fee 12118
shall be retained by the clerk who issues the certificate of title 12119
and shall be distributed in accordance with that section. If a 12120
clerk of a court of common pleas, other than the clerk of the 12121
court of common pleas of an applicant's county of residence, 12122
issues a certificate of title to the applicant, the clerk shall 12123

transmit data related to the transaction to the automated title processing system. 12124
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(2) If a certificate of title previously has been issued for the watercraft or outboard motor, the application for a certificate of title also shall be accompanied by the certificate of title duly assigned unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the watercraft or outboard motor in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership if the watercraft or outboard motor was purchased by the applicant on or before October 9, 1963, or if the watercraft is less than fourteen feet long with a permanently affixed mechanical means of propulsion and was purchased by the applicant on or before January 1, 2000; or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft or outboard motor was brought into this state. Evidence of ownership of a watercraft or outboard motor for which an Ohio certificate of title previously has not been issued and which watercraft or outboard motor does not have permanently affixed to it a manufacturer's serial number shall be accompanied by the certificate of assignment of a hull identification number assigned by the chief as provided in section 1548.07 of the Revised Code. 12126
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(3) The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically, by a vendor on behalf of a purchaser of a watercraft or outboard motor, the clerk shall retain the completed electronic record to which the vendor converted the certificate of title application and other required documents. The chief, after consultation with the attorney general, shall adopt rules that 12148
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govern the location at which, and the manner in which, are stored 12156
the actual application and all other documents relating to the 12157
sale of a watercraft or outboard motor when a vendor files the 12158
application for a certificate of title electronically on behalf of 12159
a purchaser. 12160

(B) The clerk shall use reasonable diligence in ascertaining 12161
whether the facts in the application are true by checking the 12162
application and documents accompanying it or the electronic record 12163
to which a vendor converted the application and accompanying 12164
documents with the records of watercraft and outboard motors in 12165
the clerk's office. If the clerk is satisfied that the applicant 12166
is the owner of the watercraft or outboard motor and that the 12167
application is in the proper form, the clerk shall issue a 12168
physical certificate of title over the clerk's signature and 12169
sealed with the clerk's seal unless the applicant specifically 12170
requests the clerk not to issue a physical certificate of title 12171
and instead to issue an electronic certificate of title. However, 12172
if the evidence indicates and an investigation shows that one or 12173
more Ohio titles already exist for the watercraft or outboard 12174
motor, the chief may cause the redundant title or titles to be 12175
canceled. 12176

(C) In the case of the sale of a watercraft or outboard motor 12177
by a vendor to a general purchaser or user, the certificate of 12178
title shall be obtained in the name of the purchaser by the vendor 12179
upon application signed by the purchaser. In all other cases, the 12180
certificate shall be obtained by the purchaser. In all cases of 12181
transfer of watercraft or outboard motors, the application for 12182
certificate of title shall be filed within thirty days after the 12183
later of the date of purchase or assignment of ownership of the 12184
watercraft or outboard motor. If the application for certificate 12185
of title is not filed within thirty days after the later of the 12186
date of purchase or assignment of ownership of the watercraft or 12187

outboard motor, the clerk shall charge a late penalty fee of five 12188
dollars in addition to the fee prescribed by section 1548.10 of 12189
the Revised Code. The clerk shall retain the entire amount of each 12190
late penalty fee. 12191

(D) The clerk shall refuse to accept an application for 12192
certificate of title unless the applicant either tenders with the 12193
application payment of all taxes levied by or pursuant to Chapter 12194
5739. or 5741. of the Revised Code based on the applicant's county 12195
of residence less, in the case of a sale by a vendor, any discount 12196
to which the vendor is entitled under section 5739.12 of the 12197
Revised Code, or submits any of the following: 12198

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 12199
courts showing payment of the tax; 12200

~~(B)~~(2) A copy of the unit certificate of exemption completed 12201
by the purchaser at the time of sale as provided in section 12202
5739.03 of the Revised Code; 12203

~~(C)~~(3) An exemption certificate, in a form prescribed by the 12204
tax commissioner, that specifies why the purchase is not subject 12205
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 12206

Payment of the tax shall be in accordance with rules issued 12207
by the tax commissioner, and the clerk shall issue a receipt in 12208
the form prescribed by the tax commissioner to any applicant who 12209
tenders payment of the tax with the application for the 12210
certificate of title. 12211

(E)(1) For receiving and disbursing the taxes paid to the 12212
clerk by a resident of the clerk's county, the clerk may retain a 12213
poundage fee of one and one one-hundredth per cent of the taxes 12214
collected, which shall be paid into the certificate of title 12215
administration fund created by section 325.33 of the Revised Code. 12216
The clerk shall not retain a poundage fee from payments of taxes 12217
by persons who do not reside in the clerk's county. 12218

(2) A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The chief of the division of watercraft, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(F) In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be prescribed by the chief, which shall be prima-facie evidence of the price for the determination of the tax. In addition to the information required by section 1548.08 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by law to state the true selling price. A false statement is a violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

~~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 may require.~~ (G) Each county 12251
clerk of courts shall forward to the treasurer of state all sales 12252
and use tax collections resulting from sales of titled watercraft 12253
and outboard motors during a calendar week on or before the Friday 12254
following the close of that week. If, on any Friday, the offices 12255
of the clerk of courts or the state are not open for business, the 12256
tax shall be forwarded to the treasurer of state on or before the 12257
next day on which the offices are open. Every remittance of tax 12258
under this division shall be accompanied by a remittance report in 12259
such form as the tax commissioner prescribes. Upon receipt of a 12260
tax remittance and remittance report, the treasurer of state shall 12261
date stamp the report and forward it to the tax commissioner. If 12262
the tax due for any week is not remitted by a clerk of courts as 12263
required under this division, the clerk shall forfeit the poundage 12264
fees for the sales made during that week. The treasurer of state 12265
may require the clerks of courts to transmit tax collections and 12266
remittance reports electronically. 12267

(H) For purposes of a transfer of a certificate of title, if 12268
the clerk is satisfied that a secured party has discharged a lien 12269
but has not canceled the lien notation with a clerk, the clerk may 12270
cancel the lien notation on the automated title processing system 12271
and notify the clerk of the county of origin. 12272

(I) Every clerk shall have the capability to transact by 12273
electronic means all procedures and transactions relating to the 12274
issuance of watercraft or outboard motor certificates of title 12275
that are described in the Revised Code as being accomplished by 12276
electronic means. 12277

Sec. 1711.53. (A)(1) No person shall operate an amusement 12278
ride within the state without a permit issued by the director of 12279
agriculture under division (A)(2) of this section. The owner of an 12280
amusement ride, whether the ride is a temporary amusement ride or 12281

a permanent amusement ride, who desires to operate the amusement 12282
ride within the state shall, prior to the operation of the 12283
amusement ride and annually thereafter, submit to the department 12284
of agriculture an application for a permit, together with the 12285
appropriate permit and inspection fee, on a form to be furnished 12286
by the department. Prior to issuing any permit the department 12287
shall, within thirty days after the date on which it receives the 12288
application, inspect each amusement ride described in the 12289
application. The owner of an amusement ride shall have the 12290
amusement ride ready for inspection not later than two hours after 12291
the time that is requested by the person for the inspection. 12292

(2) For each amusement ride found to comply with the rules 12293
adopted by the director under division (B) of this section and 12294
division (B) of section 1711.551 of the Revised Code, the director 12295
shall issue an annual permit, provided that evidence of liability 12296
insurance coverage for the amusement ride as required by section 12297
1711.54 of the Revised Code is on file with the department. 12298

(3) The director shall issue with each permit a decal 12299
indicating that the amusement ride has been issued the permit. The 12300
owner of the amusement ride shall affix the decal on the ride at a 12301
location where the decal is easily visible to the patrons of the 12302
ride. A copy of the permit shall be kept on file at the same 12303
address as the location of the amusement ride identified on the 12304
permit, and shall be made available for inspection, upon 12305
reasonable demand, by any person. An owner may operate an 12306
amusement ride prior to obtaining a permit, provided that the 12307
operation is for the purpose of testing the amusement ride or 12308
training amusement ride operators and other employees of the owner 12309
and the amusement ride is not open to the public. 12310

(B) The director, in accordance with Chapter 119. of the 12311
Revised Code, shall adopt rules providing for a schedule of fines, 12312
with no fine exceeding five thousand dollars, for violations of 12313

sections 1711.50 to 1711.57 of the Revised Code or any rules
adopted under this division and for the classification of
amusement rides and rules for the safe operation and inspection of
all amusement rides as are necessary for amusement ride safety and
for the protection of the general public. Rules adopted by the
director for the safe operation and inspection of amusement rides
shall be reasonable and based upon generally accepted engineering
standards and practices. In adopting rules under this section, the
director may adopt by reference, in whole or in part, the national
fire code or the national electrical code prepared by the national
fire protection association, the standards of ASTM or the American
national standards institute, or any other principles, tests, or
standards of nationally recognized technical or scientific
authorities. Insofar as is practicable and consistent with
sections 1711.50 to 1711.57 of the Revised Code, rules adopted
under this division shall be consistent with the rules of other
states. The department shall cause sections 1711.50 to 1711.57 of
the Revised Code and the rules adopted in accordance with this
division and division (B) of section 1711.551 of the Revised Code
to be published in pamphlet form and a copy to be furnished
without charge to each owner of an amusement ride who holds a
current permit or is an applicant therefor.

(C) With respect to an application for a permit for an
amusement ride, an owner may apply to the director for a waiver or
modification of any rule adopted under division (B) of this
section if there are practical difficulties or unnecessary
hardships for the amusement ride to comply with the rules. Any
application shall set forth the reasons for the request. The
director, with the approval of the advisory council on amusement
ride safety, may waive or modify the application of a rule to any
amusement ride if the public safety is secure. Any authorization
by the director under this division shall be in writing and shall

set forth the conditions under which the waiver or modification is 12346
authorized, and the department shall retain separate records of 12347
all proceedings under this division. 12348

(D)(1) The director shall employ and provide for training of 12349
a chief inspector and additional inspectors and employees as may 12350
be necessary to administer and enforce sections 1711.50 to 1711.57 12351
of the Revised Code. The director may appoint or contract with 12352
other persons to perform inspections of amusement rides, provided 12353
that the persons meet the qualifications for inspectors 12354
established by rules adopted under division (B) of this section 12355
and are not owners, or employees of owners, of any amusement ride 12356
subject to inspection under sections 1711.50 to 1711.57 of the 12357
Revised Code. No person shall inspect an amusement ride who, 12358
within six months prior to the date of inspection, was an employee 12359
of the owner of the ride. 12360

(2) Before the director contracts with other persons to 12361
inspect amusement rides, the director shall seek the advice of the 12362
advisory council on amusement ride safety on whether to contract 12363
with those persons. The advice shall not be binding upon the 12364
director. After having received the advice of the council, the 12365
director may proceed to contract with inspectors in accordance 12366
with the procedures specified in division (E)(2) of section 12367
1711.11 of the Revised Code. 12368

(3) With the advice and consent of the advisory council on 12369
amusement ride safety, the director may employ a special 12370
consultant to conduct an independent investigation of an amusement 12371
ride accident. This consultant need not be in the civil service of 12372
the state, but shall have qualifications to conduct the 12373
investigation acceptable to the council. 12374

(E)(1) Except as otherwise provided in division (E)(1) of 12375
this section, the department shall charge the following amusement 12376

ride fees:		12377
Permit <u>for residential</u>	\$ 50	12378
<u>amusement ride</u>		
Permit <u>for commercial amusement</u>	<u>\$ 150</u>	12379
<u>ride</u>		
Annual inspection and reinspection per ride:		12380
Kiddie rides	\$ 100	12381
Roller coaster	\$ 950	12382
Aerial lifts or bungee		12383
jumping facilities	\$ 450	12384
Go karts	\$ 5	12385
Other rides	\$ 160	12386
Midseason operational inspection per ride	\$ 25	12387
Expedited inspection per ride	\$ 100	12388
Failure to cancel scheduled inspection per ride	\$ 100	12389
Failure to have amusement ride ready for		12390
inspection per ride	\$100	12391
The go kart inspection fee is in addition to the inspection		12392
fee for the go kart track.		12393
The fees for an expedited inspection, failure to cancel a		12394
scheduled inspection, and failure to have an amusement ride ready		12395
for inspection do not apply to go karts.		12396
As used in division (E)(1) of this section, "expedited		12397
inspection" means an inspection of an amusement ride by the		12398
department not later than ten days after the owner of the		12399
amusement ride files an application for a permit under this		12400
section.		12401
(2) All fees and fines collected by the department under		12402
sections 1711.50 to 1711.57 of the Revised Code shall be deposited		12403
in the state treasury to the credit of the amusement ride		12404
inspection fund, which is hereby created, and shall be used only		12405

for the purpose of administering and enforcing sections 1711.11 12406
and 1711.50 to 1711.57 of the Revised Code. 12407

(3) The owner of an amusement ride shall be required to pay a 12408
reinspection fee only if the reinspection was conducted at the 12409
owner's request under division (F) of this section, if the 12410
reinspection is required by division (F) of this section because 12411
of an accident, or if the reinspection is required by division (F) 12412
of section 1711.55 of the Revised Code. If a reinspection is 12413
conducted at the request of the chief officer of a fair, festival, 12414
or event where the ride is operating, the reinspection fee shall 12415
be charged to the fair, festival, or event. 12416

(4) The rules adopted under division (B) of this section 12417
shall define "kiddie rides," "roller coaster," "aerial lifts," "go 12418
karts," and "other rides" for purposes of determining the fees 12419
under division (E) of this section. The rules shall define "other 12420
rides" to include go kart tracks. 12421

(F) A reinspection of an amusement ride shall take place if 12422
an accident occurs, if the owner of the ride or the chief officer 12423
of the fair, festival, or event where the ride is operating 12424
requests a reinspection, or if the reinspection is required by 12425
division (F) of section 1711.55 of the Revised Code. 12426

(G) As a supplement to its annual inspection of a temporary 12427
amusement ride, the department may inspect the ride during each 12428
scheduled event, as listed in the schedule of events provided to 12429
the department by the owner pursuant to division (C) of section 12430
1711.55 of the Revised Code, at which the ride is operated in this 12431
state. These supplemental inspections are in addition to any other 12432
inspection or reinspection of the ride as may be required under 12433
sections 1711.50 to 1711.57 of the Revised Code, and the owner of 12434
the temporary amusement ride is not required to pay an inspection 12435
or reinspection fee for this supplemental inspection. Nothing in 12436

this division shall be construed to prohibit the owner of a 12437
temporary amusement ride having a valid permit to operate in this 12438
state from operating the ride at a scheduled event before the 12439
department conducts a supplemental inspection. 12440

(H) The department may annually conduct a midseason 12441
operational inspection of every amusement ride upon which it 12442
conducts an annual inspection pursuant to division (A) of this 12443
section. The midseason operational inspection is in addition to 12444
any other inspection or reinspection of the amusement ride as may 12445
be required pursuant to sections 1711.50 to 1711.57 of the Revised 12446
Code. The owner of an amusement ride shall submit to the 12447
department, at the time determined by the department, the 12448
midseason operational inspection fee specified in division (E) of 12449
this section. The director, in accordance with Chapter 119. of the 12450
Revised Code, shall adopt rules specifying the time period during 12451
which the department will conduct midseason operational 12452
inspections. 12453

Sec. 1713.03. The Ohio board of regents shall establish 12454
standards for certificates of authorization to be issued to 12455
institutions as defined in section 1713.01 of the Revised Code, to 12456
private institutions exempt from regulation under Chapter 3332. of 12457
the Revised Code as prescribed in section 3333.046 of the Revised 12458
Code, and to schools holding certificates of registration issued 12459
by the state board of career colleges and schools pursuant to 12460
division (C) of section 3332.05 of the Revised Code. A certificate 12461
of authorization may permit an institution or school to award one 12462
or more types of degrees. 12463

The standards for a certificate of authorization may include, 12464
for various types of institutions, schools, or degrees, minimum 12465
qualifications for faculty, library, laboratories, and other 12466
facilities as adopted and published by the Ohio board of regents. 12467

The standards shall be adopted by the board pursuant to Chapter 119. of the Revised Code. 12468
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An institution or school shall apply to the board for a certificate of authorization on forms containing such information as is prescribed by the board. Each institution or school with a certificate of authorization shall file an annual report with the board in such form and containing such information as the board prescribes. 12470
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The board shall adopt a rule under Chapter 119. of the Revised Code establishing fees to pay the cost of reviewing an application for a certificate of authorization, which the institution or school shall pay when it applies for a certificate of authorization, and establishing fees, which an institution or school shall pay, for any further reviews the board determines necessary upon examining an institution's or school's annual report. 12476
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Sec. 1751.03. (A) Each application for a certificate of authority under this chapter shall be verified by an officer or authorized representative of the applicant, shall be in a format prescribed by the superintendent of insurance, and shall set forth or be accompanied by the following: 12484
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(1) A certified copy of the applicant's articles of incorporation and all amendments to the articles of incorporation; 12489
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(2) A copy of any regulations adopted for the government of the corporation, any bylaws, and any similar documents, and a copy of all amendments to these regulations, bylaws, and documents. The corporate secretary shall certify that these regulations, bylaws, documents, and amendments have been properly adopted or approved. 12491
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(3) A list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant, 12496
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including all members of the board, the principal officers, and 12498
the person responsible for completing or filing financial 12499
statements with the department of insurance, accompanied by a 12500
completed original biographical affidavit and release of 12501
information for each of these persons on forms acceptable to the 12502
department; 12503

(4) A full and complete disclosure of the extent and nature 12504
of any contractual or other financial arrangement between the 12505
applicant and any provider or a person listed in division (A)(3) 12506
of this section, including, but not limited to, a full and 12507
complete disclosure of the financial interest held by any such 12508
provider or person in any health care facility, provider, or 12509
insurer that has entered into a financial relationship with the 12510
health insuring corporation; 12511

(5) A description of the applicant, its facilities, and its 12512
personnel, including, but not limited to, the location, hours of 12513
operation, and telephone numbers of all contracted facilities; 12514

(6) The applicant's projected annual enrollee population over 12515
a three-year period; 12516

(7) A clear and specific description of the health care plan 12517
or plans to be used by the applicant, including a description of 12518
the proposed providers, procedures for accessing care, and the 12519
form of all proposed and existing contracts relating to the 12520
administration, delivery, or financing of health care services; 12521

(8) A copy of each type of evidence of coverage and 12522
identification card or similar document to be issued to 12523
subscribers; 12524

(9) A copy of each type of individual or group policy, 12525
contract, or agreement to be used; 12526

(10) The schedule of the proposed contractual periodic 12527

prepayments or premium rates, or both, accompanied by appropriate supporting data;	12528 12529
(11) A financial plan which provides a three-year projection of operating results, including the projected expenses, income, and sources of working capital;	12530 12531 12532
(12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code;	12533 12534
(13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;	12535 12536 12537 12538 12539
(14) A statement describing the geographic area or areas to be served, by county;	12540 12541
(15) A copy of all solicitation documents;	12542
(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;	12543 12544 12545
(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;	12546 12547 12548 12549 12550
(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The	12551 12552 12553 12554 12555 12556 12557

description shall include that person's experience in managing or 12558
administering health care plans, a copy of that person's most 12559
recent audited financial statement, and a completed biographical 12560
affidavit on a form acceptable to the superintendent for each of 12561
that person's principal officers and board members and for any 12562
additional employee to be directly involved in providing 12563
managerial or administrative services to the health insuring 12564
corporation. If the person to provide managerial or administrative 12565
services is affiliated with the health insuring corporation, the 12566
contract must provide for payment for services based on actual 12567
costs. 12568

(19) A statement from the applicant's board that the admitted 12569
assets of the applicant have not been and will not be pledged or 12570
hypothecated; 12571

(20) A statement from the applicant's board that the 12572
applicant will submit monthly financial statements during the 12573
first year of operations; 12574

(21) The name and address of the applicant's Ohio statutory 12575
agent for service of process, notice, or demand; 12576

(22) Copies of all documents the applicant filed with the 12577
secretary of state; 12578

(23) The location of those books and records of the applicant 12579
that must be maintained, which books and records shall be 12580
maintained in Ohio if the applicant is a domestic corporation, and 12581
which may be maintained either in the applicant's state of 12582
domicile or in Ohio if the applicant is a foreign corporation; 12583

(24) The applicant's federal identification number, corporate 12584
address, and mailing address; 12585

(25) An internal and external organizational chart; 12586

(26) A list of the assets representing the initial net worth 12587

of the applicant;	12588
(27) If the applicant has a parent company, the parent company's guaranty, on a form acceptable to the superintendent, that the applicant will maintain Ohio's minimum net worth. If no parent company exists, a statement regarding the availability of future funds if needed.	12589 12590 12591 12592 12593
(28) The names and addresses of the applicant's actuary and external auditors;	12594 12595
(29) If the applicant is a foreign corporation, a copy of the most recent financial statements filed with the insurance regulatory agency in the applicant's state of domicile;	12596 12597 12598
(30) If the applicant is a foreign corporation, a statement from the insurance regulatory agency of the applicant's state of domicile stating that the regulatory agency has no objection to the applicant applying for an Ohio license and that the applicant is in good standing in the applicant's state of domicile;	12599 12600 12601 12602 12603
(31) Any other information that the superintendent may require;	12604 12605
<u>(32) Documentation acceptable to the superintendent of the bond or securities required by section 1751.271 of the Revised Code.</u>	12606 12607 12608
(B)(1) A health insuring corporation, unless otherwise provided for in this chapter or in section 3901.321 of the Revised Code, shall file a timely notice with the superintendent describing any change to the corporation's articles of incorporation or regulations, or any major modification to its operations as set out in the information required by division (A) of this section that affects any of the following:	12609 12610 12611 12612 12613 12614 12615
(a) The solvency of the health insuring corporation;	12616
(b) The health insuring corporation's continued provision of	12617

services that it has contracted to provide; 12618

(c) The manner in which the health insuring corporation 12619
conducts its business. 12620

(2) If the change or modification is to be the result of an 12621
action to be taken by the health insuring corporation, the notice 12622
shall be filed with the superintendent prior to the health 12623
insuring corporation taking the action. The action shall be deemed 12624
approved if the superintendent does not disapprove it within sixty 12625
days of filing. 12626

(3) The filing of a notice pursuant to division (B)(1) or (2) 12627
of this section shall also serve as the submission of a notice 12628
when required for the superintendent's review for purposes of 12629
section 3901.341 of the Revised Code, if the notice contains all 12630
of the information that section 3901.341 of the Revised Code 12631
requires for such submissions and a copy of any written agreement. 12632
The filing of such a notice, for the purpose of satisfying this 12633
division and section 3901.341 of the Revised Code, shall be 12634
subject to the sixty-day review period of division (B)(2) of this 12635
section. 12636

(C)(1) No health insuring corporation shall expand its 12637
approved service area until a copy of the request for expansion, 12638
accompanied by documentation of the network of providers, forms of 12639
all proposed or existing provider contracts relating to the 12640
delivery of health care services, a schedule of proposed 12641
contractual periodic prepayments and premium rates for group 12642
contracts accompanied by appropriate supporting data, enrollment 12643
projections, plan of operation, and any other changes have been 12644
filed with the superintendent. 12645

(2) Within ten calendar days after receipt of a complete 12646
filing under division (C)(1) of this section, the superintendent 12647
shall refer the appropriate jurisdictional issues to the director 12648

of health pursuant to section 1751.04 of the Revised Code. 12649

(3) Within seventy-five days after the superintendent's 12650
receipt of a complete filing under division (C)(1) of this 12651
section, the superintendent shall determine whether the plan for 12652
expansion is lawful, fair, and reasonable. The superintendent may 12653
not make a determination until the superintendent has received the 12654
director's certification of compliance, which the director shall 12655
furnish within forty-five days after referral under division 12656
(C)(2) of this section. The director shall not certify that the 12657
requirements of section 1751.04 of the Revised Code are not met, 12658
unless the applicant has been given an opportunity for a hearing 12659
as provided in division (D) of section 1751.04 of the Revised 12660
Code. The forty-five-day and seventy-five-day review periods 12661
provided for in division (C)(3) of this section shall cease to run 12662
as of the date on which the notice of the applicant's right to 12663
request a hearing is mailed and shall remain suspended until the 12664
director issues a final certification. 12665

(4) If the superintendent has not approved or disapproved all 12666
or a portion of a service area expansion within the 12667
seventy-five-day period provided for in division (C)(3) of this 12668
section, the filing shall be deemed approved. 12669

(5) Disapproval of all or a portion of the filing shall be 12670
effected by written notice, which shall state the grounds for the 12671
order of disapproval and shall be given in accordance with Chapter 12672
119. of the Revised Code. 12673

Sec. 1751.271. (A) Each health insuring corporation that 12674
provides coverage to medicaid recipients shall post a performance 12675
bond in the amount of one million dollars as security to fulfill 12676
the obligations of the health insuring corporation to pay claims 12677
of contracted providers for covered health care services provided 12678
to medicaid recipients. The bond shall be payable to the 12679

department of insurance in the event that the health insuring corporation is placed in rehabilitation or liquidation proceedings under Chapter 3903. of the Revised Code, and shall become a special deposit subject to section 3903.14 or 3903.421 of the Revised Code, as applicable. In lieu of the performance bond, a medicaid health insuring corporation may deposit securities with the superintendent of insurance, acceptable to the superintendent, in the amount of one million dollars, to satisfy the bonding requirements of this section. Upon rehabilitation or liquidation, the securities shall become a special deposit subject to sections 3903.14 and 3903.421 of the Revised Code, as applicable. The health insuring corporation shall receive the interest on the deposited securities as long as the health insuring corporation remains solvent.

(B) The bond shall be issued by a surety company licensed with the department of insurance. The bond or deposit, or any replacement bond or deposit, shall be in a form acceptable to the superintendent, and shall remain in effect during the duration of the medicaid health insuring corporation's license and thereafter until all claims against the medicaid health insuring corporation have been paid in full.

(C) Documentation of the bond acceptable to the superintendent of insurance shall be filed with the superintendent prior to the issuance of a certificate of authority. Annually, thirty days prior to the renewal of its certificate of authority, every medicaid health insuring corporation shall furnish the superintendent of insurance with evidence that the required bond is still in effect.

(D) As used in this section:

(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide

<u>covered health care services to medicaid recipients.</u>	12711
<u>(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients.</u>	12712
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<u>(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.</u>	12715
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Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows:	12718
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(1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.	12720
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(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit.	12725
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(3) When a jury trial is demanded in any civil action or proceeding, the party making the demand may be required to make an advance deposit as fixed by rule of court, unless, upon affidavit or other evidence, the court concludes that the party is unable to make the required deposit. If a jury is called, the fees of a jury shall be taxed as costs.	12731
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(4) In any civil or criminal action or proceeding, witnesses' fees shall be fixed in accordance with sections 2335.06 and 2335.08 of the Revised Code.	12737
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(5) A reasonable charge for driving, towing, carting,	12740

storing, keeping, and preserving motor vehicles and other personal 12741
property recovered or seized in any proceeding may be taxed as 12742
part of the costs in a trial of the cause, in an amount that shall 12743
be fixed by rule of court. 12744

(6) Chattel property seized under any writ or process issued 12745
by the court shall be preserved pending final disposition for the 12746
benefit of all persons interested and may be placed in storage 12747
when necessary or proper for that preservation. The custodian of 12748
any chattel property so stored shall not be required to part with 12749
the possession of the property until a reasonable charge, to be 12750
fixed by the court, is paid. 12751

(7) The municipal court, as it determines, may refund all 12752
deposits and advance payments of fees and costs, including those 12753
for jurors and summoning jurors, when they have been paid by the 12754
losing party. 12755

(8) Charges for the publication of legal notices required by 12756
statute or order of court may be taxed as part of the costs, as 12757
provided by section 7.13 of the Revised Code. 12758

(B)(1) The municipal court may determine that, for the 12759
efficient operation of the court, additional funds are necessary 12760
to acquire and pay for special projects of the court including, 12761
but not limited to, the acquisition of additional facilities or 12762
the rehabilitation of existing facilities, the acquisition of 12763
equipment, the hiring and training of staff, community service 12764
programs, mediation or dispute resolution services, the employment 12765
of magistrates, the training and education of judges, acting 12766
judges, and magistrates, and other related services. Upon that 12767
determination, the court by rule may charge a fee, in addition to 12768
all other court costs, on the filing of each criminal cause, civil 12769
action or proceeding, or judgment by confession. 12770

If the municipal court offers a special program or service in 12771

cases of a specific type, the municipal court by rule may assess 12772
an additional charge in a case of that type, over and above court 12773
costs, to cover the special program or service. The municipal 12774
court shall adjust the special assessment periodically, but not 12775
retroactively, so that the amount assessed in those cases does not 12776
exceed the actual cost of providing the service or program. 12777

All moneys collected under division (B) of this section shall 12778
be paid to the county treasurer if the court is a county-operated 12779
municipal court or to the city treasurer if the court is not a 12780
county-operated municipal court for deposit into either a general 12781
special projects fund or a fund established for a specific special 12782
project. Moneys from a fund of that nature shall be disbursed upon 12783
an order of the court in an amount no greater than the actual cost 12784
to the court of a project. If a specific fund is terminated 12785
because of the discontinuance of a program or service established 12786
under division (B) of this section, the municipal court may order 12787
that moneys remaining in the fund be transferred to an account 12788
established under this division for a similar purpose. 12789

(2) As used in division (B) of this section: 12790

(a) "Criminal cause" means a charge alleging the violation of 12791
a statute or ordinance, or subsection of a statute or ordinance, 12792
that requires a separate finding of fact or a separate plea before 12793
disposition and of which the defendant may be found guilty, 12794
whether filed as part of a multiple charge on a single summons, 12795
citation, or complaint or as a separate charge on a single 12796
summons, citation, or complaint. "Criminal cause" does not include 12797
separate violations of the same statute or ordinance, or 12798
subsection of the same statute or ordinance, unless each charge is 12799
filed on a separate summons, citation, or complaint. 12800

(b) "Civil action or proceeding" means any civil litigation 12801
that must be determined by judgment entry. 12802

(C) The municipal court shall collect in all its divisions 12803
except the small claims division the sum of ~~fifteen~~ twenty-five 12804
dollars as additional filing fees in each new civil action or 12805
proceeding for the charitable public purpose of providing 12806
financial assistance to legal aid societies that operate within 12807
the state. The municipal court shall collect in its small claims 12808
division the sum of ~~seven~~ ten dollars as additional filing fees in 12809
each new civil action or proceeding for the charitable public 12810
purpose of providing financial assistance to legal aid societies 12811
that operate within the state. This division does not apply to any 12812
execution on a judgment, proceeding in aid of execution, or other 12813
post-judgment proceeding arising out of a civil action. The filing 12814
fees required to be collected under this division shall be in 12815
addition to any other court costs imposed in the action or 12816
proceeding and shall be collected at the time of the filing of the 12817
action or proceeding. The court shall not waive the payment of the 12818
additional filing fees in a new civil action or proceeding unless 12819
the court waives the advanced payment of all filing fees in the 12820
action or proceeding. All such moneys collected during a month 12821
shall be transmitted on or before the ~~first-business~~ twentieth day 12822
of ~~each~~ the following month by the clerk of the court to the 12823
treasurer of state in a manner prescribed by the treasurer of 12824
state or by the Ohio legal assistance foundation. The moneys then 12825
shall be deposited by the treasurer of state to the credit of the 12826
legal aid fund established under section 120.52 of the Revised 12827
Code. 12828

The court may retain up to one per cent of the moneys it 12829
collects under this division to cover administrative costs, 12830
including the hiring of any additional personnel necessary to 12831
implement this division. 12832

(D) In the Cleveland municipal court, reasonable charges for 12833
investigating titles of real estate to be sold or disposed of 12834

under any writ or process of the court may be taxed as part of the 12835
costs. 12836

(E) Under the circumstances described in sections 2969.21 to 12837
2969.27 of the Revised Code, the clerk of the municipal court 12838
shall charge the fees and perform the other duties specified in 12839
those sections. 12840

Sec. 1901.31. The clerk and deputy clerks of a municipal 12841
court shall be selected, be compensated, give bond, and have 12842
powers and duties as follows: 12843

(A) There shall be a clerk of the court who is appointed or 12844
elected as follows: 12845

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 12846
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 12847
municipal courts, if the population of the territory equals or 12848
exceeds one hundred thousand at the regular municipal election 12849
immediately preceding the expiration of the term of the present 12850
clerk, the clerk shall be nominated and elected by the qualified 12851
electors of the territory in the manner that is provided for the 12852
nomination and election of judges in section 1901.07 of the 12853
Revised Code. 12854

The clerk so elected shall hold office for a term of six 12855
years, which term shall commence on the first day of January 12856
following the clerk's election and continue until the clerk's 12857
successor is elected and qualified. 12858

(b) In the Hamilton county municipal court, the clerk of 12859
courts of Hamilton county shall be the clerk of the municipal 12860
court and may appoint an assistant clerk who shall receive the 12861
compensation, payable out of the treasury of Hamilton county in 12862
semimonthly installments, that the board of county commissioners 12863
prescribes. The clerk of courts of Hamilton county, acting as the 12864

clerk of the Hamilton county municipal court and assuming the
duties of that office, shall receive compensation at one-fourth
the rate that is prescribed for the clerks of courts of common
pleas as determined in accordance with the population of the
county and the rates set forth in sections 325.08 and 325.18 of
the Revised Code. This compensation shall be paid from the county
treasury in semimonthly installments and is in addition to the
annual compensation that is received for the performance of the
duties of the clerk of courts of Hamilton county, as provided in
sections 325.08 and 325.18 of the Revised Code.

(c) In the Portage county and Wayne county municipal courts,
the clerks of courts of Portage county and Wayne county shall be
the clerks, respectively, of the Portage county and Wayne county
municipal courts and may appoint a chief deputy clerk for each
branch that is established pursuant to section 1901.311 of the
Revised Code and assistant clerks as the judges of the municipal
court determine are necessary, all of whom shall receive the
compensation that the legislative authority prescribes. The clerks
of courts of Portage county and Wayne county, acting as the clerks
of the Portage county and Wayne county municipal courts and
assuming the duties of these offices, shall receive compensation
payable from the county treasury in semimonthly installments at
one-fourth the rate that is prescribed for the clerks of courts of
common pleas as determined in accordance with the population of
the county and the rates set forth in sections 325.08 and 325.18
of the Revised Code.

(d) Except as otherwise provided in division (A)(1)(d) of
this section, in the Akron municipal court, candidates for
election to the office of clerk of the court shall be nominated by
primary election. The primary election shall be held on the day
specified in the charter of the city of Akron for the nomination
of municipal officers. Notwithstanding section 3513.257 of the

Revised Code, the nominating petitions of independent candidates 12897
shall be signed by at least two hundred fifty qualified electors 12898
of the territory of the court. 12899

The candidates shall file a declaration of candidacy and 12900
petition, or a nominating petition, whichever is applicable, not 12901
later than four p.m. of the seventy-fifth day before the day of 12902
the primary election, in the form prescribed by section 3513.07 or 12903
3513.261 of the Revised Code. The declaration of candidacy and 12904
petition, or the nominating petition, shall conform to the 12905
applicable requirements of section 3513.05 or 3513.257 of the 12906
Revised Code. 12907

If no valid declaration of candidacy and petition is filed by 12908
any person for nomination as a candidate of a particular political 12909
party for election to the office of clerk of the Akron municipal 12910
court, a primary election shall not be held for the purpose of 12911
nominating a candidate of that party for election to that office. 12912
If only one person files a valid declaration of candidacy and 12913
petition for nomination as a candidate of a particular political 12914
party for election to that office, a primary election shall not be 12915
held for the purpose of nominating a candidate of that party for 12916
election to that office, and the candidate shall be issued a 12917
certificate of nomination in the manner set forth in section 12918
3513.02 of the Revised Code. 12919

Declarations of candidacy and petitions, nominating 12920
petitions, and certificates of nomination for the office of clerk 12921
of the Akron municipal court shall contain a designation of the 12922
term for which the candidate seeks election. At the following 12923
regular municipal election, all candidates for the office shall be 12924
submitted to the qualified electors of the territory of the court 12925
in the manner that is provided in section 1901.07 of the Revised 12926
Code for the election of the judges of the court. The clerk so 12927
elected shall hold office for a term of six years, which term 12928

shall commence on the first day of January following the clerk's 12929
election and continue until the clerk's successor is elected and 12930
qualified. 12931

~~(e) Irrespective of the population of the territory of the 12932
Medina municipal court, the clerk of that court shall be appointed 12933
pursuant to division (A)(2)(a) of this section by the judges of 12934
that court, shall hold office until the clerk's successor is 12935
similarly appointed and qualified, and shall receive pursuant to 12936
division (C) of this section the annual compensation that the 12937
legislative authority prescribes and that is payable in 12938
semimonthly installments from the same sources and in the same 12939
manner as provided in section 1901.11 of the Revised Code. 12940~~

~~(f) Except as otherwise provided in division (A)(1)(f)(e) of 12941
this section, in the Barberton municipal court, candidates for 12942
election to the office of clerk of the court shall be nominated by 12943
primary election. The primary election shall be held on the day 12944
specified in the charter of the city of Barberton for the 12945
nomination of municipal officers. Notwithstanding section 3513.257 12946
of the Revised Code, the nominating petitions of independent 12947
candidates shall be signed by at least two hundred fifty qualified 12948
electors of the territory of the court. 12949~~

The candidates shall file a declaration of candidacy and 12950
petition, or a nominating petition, whichever is applicable, not 12951
later than four p.m. of the seventy-fifth day before the day of 12952
the primary election, in the form prescribed by section 3513.07 or 12953
3513.261 of the Revised Code. The declaration of candidacy and 12954
petition, or the nominating petition, shall conform to the 12955
applicable requirements of section 3513.05 or 3513.257 of the 12956
Revised Code. 12957

If no valid declaration of candidacy and petition is filed by 12958
any person for nomination as a candidate of a particular political 12959

party for election to the office of clerk of the Barberton
municipal court, a primary election shall not be held for the
purpose of nominating a candidate of that party for election to
that office. If only one person files a valid declaration of
candidacy and petition for nomination as a candidate of a
particular political party for election to that office, a primary
election shall not be held for the purpose of nominating a
candidate of that party for election to that office, and the
candidate shall be issued a certificate of nomination in the
manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating
petitions, and certificates of nomination for the office of clerk
of the Barberton municipal court shall contain a designation of
the term for which the candidate seeks election. At the following
regular municipal election, all candidates for the office shall be
submitted to the qualified electors of the territory of the court
in the manner that is provided in section 1901.07 of the Revised
Code for the election of the judges of the court. The clerk so
elected shall hold office for a term of six years, which term
shall commence on the first day of January following the clerk's
election and continue until the clerk's successor is elected and
qualified.

~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f)
of this section, in the Cuyahoga Falls municipal court, candidates
for election to the office of clerk of the court shall be
nominated by primary election. The primary election shall be held
on the day specified in the charter of the city of Cuyahoga Falls
for the nomination of municipal officers. Notwithstanding section
3513.257 of the Revised Code, the nominating petitions of
independent candidates shall be signed by at least two hundred
fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and

petition, or a nominating petition, whichever is applicable, not 12992
later than four p.m. of the seventy-fifth day before the day of 12993
the primary election, in the form prescribed by section 3513.07 or 12994
3513.261 of the Revised Code. The declaration of candidacy and 12995
petition, or the nominating petition, shall conform to the 12996
applicable requirements of section 3513.05 or 3513.257 of the 12997
Revised Code. 12998

If no valid declaration of candidacy and petition is filed by 12999
any person for nomination as a candidate of a particular political 13000
party for election to the office of clerk of the Cuyahoga Falls 13001
municipal court, a primary election shall not be held for the 13002
purpose of nominating a candidate of that party for election to 13003
that office. If only one person files a valid declaration of 13004
candidacy and petition for nomination as a candidate of a 13005
particular political party for election to that office, a primary 13006
election shall not be held for the purpose of nominating a 13007
candidate of that party for election to that office, and the 13008
candidate shall be issued a certificate of nomination in the 13009
manner set forth in section 3513.02 of the Revised Code. 13010

Declarations of candidacy and petitions, nominating 13011
petitions, and certificates of nomination for the office of clerk 13012
of the Cuyahoga Falls municipal court shall contain a designation 13013
of the term for which the candidate seeks election. At the 13014
following regular municipal election, all candidates for the 13015
office shall be submitted to the qualified electors of the 13016
territory of the court in the manner that is provided in section 13017
1901.07 of the Revised Code for the election of the judges of the 13018
court. The clerk so elected shall hold office for a term of six 13019
years, which term shall commence on the first day of January 13020
following the clerk's election and continue until the clerk's 13021
successor is elected and qualified. 13022

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 13023

of this section, in the Toledo municipal court, candidates for 13024
election to the office of clerk of the court shall be nominated by 13025
primary election. The primary election shall be held on the day 13026
specified in the charter of the city of Toledo for the nomination 13027
of municipal officers. Notwithstanding section 3513.257 of the 13028
Revised Code, the nominating petitions of independent candidates 13029
shall be signed by at least two hundred fifty qualified electors 13030
of the territory of the court. 13031

The candidates shall file a declaration of candidacy and 13032
petition, or a nominating petition, whichever is applicable, not 13033
later than four p.m. of the seventy-fifth day before the day of 13034
the primary election, in the form prescribed by section 3513.07 or 13035
3513.261 of the Revised Code. The declaration of candidacy and 13036
petition, or the nominating petition, shall conform to the 13037
applicable requirements of section 3513.05 or 3513.257 of the 13038
Revised Code. 13039

If no valid declaration of candidacy and petition is filed by 13040
any person for nomination as a candidate of a particular political 13041
party for election to the office of clerk of the Toledo municipal 13042
court, a primary election shall not be held for the purpose of 13043
nominating a candidate of that party for election to that office. 13044
If only one person files a valid declaration of candidacy and 13045
petition for nomination as a candidate of a particular political 13046
party for election to that office, a primary election shall not be 13047
held for the purpose of nominating a candidate of that party for 13048
election to that office, and the candidate shall be issued a 13049
certificate of nomination in the manner set forth in section 13050
3513.02 of the Revised Code. 13051

Declarations of candidacy and petitions, nominating 13052
petitions, and certificates of nomination for the office of clerk 13053
of the Toledo municipal court shall contain a designation of the 13054
term for which the candidate seeks election. At the following 13055

regular municipal election, all candidates for the office shall be
submitted to the qualified electors of the territory of the court
in the manner that is provided in section 1901.07 of the Revised
Code for the election of the judges of the court. The clerk so
elected shall hold office for a term of six years, which term
shall commence on the first day of January following the clerk's
election and continue until the clerk's successor is elected and
qualified.

(2)(a) Except for the Alliance, Auglaize county, Brown
county, Columbiana county, Lorain, Massillon, and Youngstown
municipal courts, in a municipal court for which the population of
the territory is less than one hundred thousand ~~and in the Medina
municipal court~~, the clerk shall be appointed by the court, and
the clerk shall hold office until the clerk's successor is
appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown
municipal courts, the clerk shall be elected for a term of office
as described in division (A)(1)(a) of this section.

(c) In the Auglaize county and Brown county municipal courts,
the clerks of courts of Auglaize county and Brown county shall be
the clerks, respectively, of the Auglaize county and Brown county
municipal courts and may appoint a chief deputy clerk for each
branch that is established pursuant to section 1901.311 of the
Revised Code, and assistant clerks as the judge of the court
determines are necessary, all of whom shall receive the
compensation that the legislative authority prescribes. The clerks
of courts of Auglaize county and Brown county, acting as the
clerks of the Auglaize county and Brown county municipal courts
and assuming the duties of these offices, shall receive
compensation payable from the county treasury in semimonthly
installments at one-fourth the rate that is prescribed for the
clerks of courts of common pleas as determined in accordance with

the population of the county and the rates set forth in sections 13088
325.08 and 325.18 of the Revised Code. 13089

(d) In the Columbiana county municipal court, the clerk of 13090
courts of Columbiana county shall be the clerk of the municipal 13091
court, may appoint a chief deputy clerk for each branch office 13092
that is established pursuant to section 1901.311 of the Revised 13093
Code, and may appoint any assistant clerks that the judges of the 13094
court determine are necessary. All of the chief deputy clerks and 13095
assistant clerks shall receive the compensation that the 13096
legislative authority prescribes. The clerk of courts of 13097
Columbiana county, acting as the clerk of the Columbiana county 13098
municipal court and assuming the duties of that office, shall 13099
receive compensation payable from the county treasury in 13100
semimonthly installments at one-fourth the rate that is prescribed 13101
for the clerks of courts of common pleas as determined in 13102
accordance with the population of the county and the rates set 13103
forth in sections 325.08 and 325.18 of the Revised Code. 13104

(3) During the temporary absence of the clerk due to illness, 13105
vacation, or other proper cause, the court may appoint a temporary 13106
clerk, who shall be paid the same compensation, have the same 13107
authority, and perform the same duties as the clerk. 13108

(B) Except in the Hamilton county, ~~Medina~~, Portage county, 13109
and Wayne county municipal courts, if a vacancy occurs in the 13110
office of the clerk of the Alliance, Lorain, Massillon, or 13111
Youngstown municipal court or occurs in the office of the clerk of 13112
a municipal court for which the population of the territory equals 13113
or exceeds one hundred thousand because the clerk ceases to hold 13114
the office before the end of the clerk's term or because a 13115
clerk-elect fails to take office, the vacancy shall be filled, 13116
until a successor is elected and qualified, by a person chosen by 13117
the residents of the territory of the court who are members of the 13118
county central committee of the political party by which the last 13119

occupant of that office or the clerk-elect was nominated. Not less 13120
than five nor more than fifteen days after a vacancy occurs, those 13121
members of that county central committee shall meet to make an 13122
appointment to fill the vacancy. At least four days before the 13123
date of the meeting, the chairperson or a secretary of the county 13124
central committee shall notify each such member of that county 13125
central committee by first class mail of the date, time, and place 13126
of the meeting and its purpose. A majority of all such members of 13127
that county central committee constitutes a quorum, and a majority 13128
of the quorum is required to make the appointment. If the office 13129
so vacated was occupied or was to be occupied by a person not 13130
nominated at a primary election, or if the appointment was not 13131
made by the committee members in accordance with this division, 13132
the court shall make an appointment to fill the vacancy. A 13133
successor shall be elected to fill the office for the unexpired 13134
term at the first municipal election that is held more than one 13135
hundred twenty days after the vacancy occurred. 13136

(C)(1) In a municipal court, other than the Auglaize county, 13137
the Brown county, the Columbiana county, and the Lorain municipal 13138
courts, for which the population of the territory is less than one 13139
hundred thousand ~~and in the Medina municipal court~~, the clerk of 13140
the municipal court shall receive the annual compensation that the 13141
presiding judge of the court prescribes, if the revenue of the 13142
court for the preceding calendar year, as certified by the auditor 13143
or chief fiscal officer of the municipal corporation in which the 13144
court is located or, in the case of a county-operated municipal 13145
court, the county auditor, is equal to or greater than the 13146
expenditures, including any debt charges, for the operation of the 13147
court payable under this chapter from the city treasury or, in the 13148
case of a county-operated municipal court, the county treasury for 13149
that calendar year, as also certified by the auditor or chief 13150
fiscal officer. If the revenue of a municipal court, other than 13151
the Auglaize county, the Brown county, the Columbiana county, and 13152

the Lorain municipal courts, for which the population of the 13153
territory is less than one hundred thousand ~~or the revenue of the~~ 13154
~~Medina municipal court~~ for the preceding calendar year as so 13155
certified is not equal to or greater than those expenditures for 13156
the operation of the court for that calendar year as so certified, 13157
the clerk of a municipal court shall receive the annual 13158
compensation that the legislative authority prescribes. As used in 13159
this division, "revenue" means the total of all costs and fees 13160
that are collected and paid to the city treasury or, in a 13161
county-operated municipal court, the county treasury by the clerk 13162
of the municipal court under division (F) of this section and all 13163
interest received and paid to the city treasury or, in a 13164
county-operated municipal court, the county treasury in relation 13165
to the costs and fees under division (G) of this section. 13166

(2) In a municipal court, other than the Hamilton county, 13167
~~Medina~~, Portage county, and Wayne county municipal courts, for 13168
which the population of the territory is one hundred thousand or 13169
more, and in the Lorain municipal court, the clerk of the 13170
municipal court shall receive annual compensation in a sum equal 13171
to eighty-five per cent of the salary of a judge of the court. 13172

(3) The compensation of a clerk described in division (C)(1) 13173
or (2) of this section is payable in semimonthly installments from 13174
the same sources and in the same manner as provided in section 13175
1901.11 of the Revised Code. 13176

(D) Before entering upon the duties of the clerk's office, 13177
the clerk of a municipal court shall give bond of not less than 13178
six thousand dollars to be determined by the judges of the court, 13179
conditioned upon the faithful performance of the clerk's duties. 13180

(E) The clerk of a municipal court may do all of the 13181
following: administer oaths, take affidavits, and issue executions 13182
upon any judgment rendered in the court, including a judgment for 13183
unpaid costs; issue, sign, and attach the seal of the court to all 13184

writs, process, subpoenas, and papers issuing out of the court; 13185
and approve all bonds, sureties, recognizances, and undertakings 13186
fixed by any judge of the court or by law. The clerk may refuse to 13187
accept for filing any pleading or paper submitted for filing by a 13188
person who has been found to be a vexatious litigator under 13189
section 2323.52 of the Revised Code and who has failed to obtain 13190
leave to proceed under that section. The clerk shall do all of the 13191
following: file and safely keep all journals, records, books, and 13192
papers belonging or appertaining to the court; record the 13193
proceedings of the court; perform all other duties that the judges 13194
of the court may prescribe; and keep a book showing all receipts 13195
and disbursements, which book shall be open for public inspection 13196
at all times. 13197

The clerk shall prepare and maintain a general index, a 13198
docket, and other records that the court, by rule, requires, all 13199
of which shall be the public records of the court. In the docket, 13200
the clerk shall enter, at the time of the commencement of an 13201
action, the names of the parties in full, the names of the 13202
counsel, and the nature of the proceedings. Under proper dates, 13203
the clerk shall note the filing of the complaint, issuing of 13204
summons or other process, returns, and any subsequent pleadings. 13205
The clerk also shall enter all reports, verdicts, orders, 13206
judgments, and proceedings of the court, clearly specifying the 13207
relief granted or orders made in each action. The court may order 13208
an extended record of any of the above to be made and entered, 13209
under the proper action heading, upon the docket at the request of 13210
any party to the case, the expense of which record may be taxed as 13211
costs in the case or may be required to be prepaid by the party 13212
demanding the record, upon order of the court. 13213

(F) The clerk of a municipal court shall receive, collect, 13214
and issue receipts for all costs, fees, fines, bail, and other 13215
moneys payable to the office or to any officer of the court. The 13216

clerk shall each month disburse to the proper persons or officers, 13217
and take receipts for, all costs, fees, fines, bail, and other 13218
moneys that the clerk collects. Subject to sections 3375.50 and 13219
4511.193 of the Revised Code and to any other section of the 13220
Revised Code that requires a specific manner of disbursement of 13221
any moneys received by a municipal court and except for the 13222
Hamilton county, Lawrence county, and Ottawa county municipal 13223
courts, the clerk shall pay all fines received for violation of 13224
municipal ordinances into the treasury of the municipal 13225
corporation the ordinance of which was violated and shall pay all 13226
fines received for violation of township resolutions adopted 13227
pursuant to Chapter 504. of the Revised Code into the treasury of 13228
the township the resolution of which was violated. Subject to 13229
sections 1901.024 and 4511.193 of the Revised Code, in the 13230
Hamilton county, Lawrence county, and Ottawa county municipal 13231
courts, the clerk shall pay fifty per cent of the fines received 13232
for violation of municipal ordinances and fifty per cent of the 13233
fines received for violation of township resolutions adopted 13234
pursuant to Chapter 504. of the Revised Code into the treasury of 13235
the county. Subject to sections 3375.50, 3375.53, 4511.19, and 13236
5503.04 of the Revised Code and to any other section of the 13237
Revised Code that requires a specific manner of disbursement of 13238
any moneys received by a municipal court, the clerk shall pay all 13239
fines collected for the violation of state laws into the county 13240
treasury. Except in a county-operated municipal court, the clerk 13241
shall pay all costs and fees the disbursement of which is not 13242
otherwise provided for in the Revised Code into the city treasury. 13243
The clerk of a county-operated municipal court shall pay the costs 13244
and fees the disbursement of which is not otherwise provided for 13245
in the Revised Code into the county treasury. Moneys deposited as 13246
security for costs shall be retained pending the litigation. The 13247
clerk shall keep a separate account of all receipts and 13248
disbursements in civil and criminal cases, which shall be a 13249

permanent public record of the office. On the expiration of the 13250
term of the clerk, the clerk shall deliver the records to the 13251
clerk's successor. The clerk shall have other powers and duties as 13252
are prescribed by rule or order of the court. 13253

(G) All moneys paid into a municipal court shall be noted on 13254
the record of the case in which they are paid and shall be 13255
deposited in a state or national bank, or a domestic savings and 13256
loan association, as defined in section 1151.01 of the Revised 13257
Code, that is selected by the clerk. Any interest received upon 13258
the deposits shall be paid into the city treasury, except that, in 13259
a county-operated municipal court, the interest shall be paid into 13260
the treasury of the county in which the court is located. 13261

On the first Monday in January of each year, the clerk shall 13262
make a list of the titles of all cases in the court that were 13263
finally determined more than one year past in which there remains 13264
unclaimed in the possession of the clerk any funds, or any part of 13265
a deposit for security of costs not consumed by the costs in the 13266
case. The clerk shall give notice of the moneys to the parties who 13267
are entitled to the moneys or to their attorneys of record. All 13268
the moneys remaining unclaimed on the first day of April of each 13269
year shall be paid by the clerk to the city treasurer, except 13270
that, in a county-operated municipal court, the moneys shall be 13271
paid to the treasurer of the county in which the court is located. 13272
The treasurer shall pay any part of the moneys at any time to the 13273
person who has the right to the moneys upon proper certification 13274
of the clerk. 13275

(H) Deputy clerks may be appointed by the clerk and shall 13276
receive the compensation, payable in semimonthly installments out 13277
of the city treasury, that the clerk may prescribe, except that 13278
the compensation of any deputy clerk of a county-operated 13279
municipal court shall be paid out of the treasury of the county in 13280
which the court is located. Each deputy clerk shall take an oath 13281

of office before entering upon the duties of the deputy clerk's 13282
office and, when so qualified, may perform the duties appertaining 13283
to the office of the clerk. The clerk may require any of the 13284
deputy clerks to give bond of not less than three thousand 13285
dollars, conditioned for the faithful performance of the deputy 13286
clerk's duties. 13287

(I) For the purposes of this section, whenever the population 13288
of the territory of a municipal court falls below one hundred 13289
thousand but not below ninety thousand, and the population of the 13290
territory prior to the most recent regular federal census exceeded 13291
one hundred thousand, the legislative authority of the municipal 13292
corporation may declare, by resolution, that the territory shall 13293
be considered to have a population of at least one hundred 13294
thousand. 13295

(J) The clerk or a deputy clerk shall be in attendance at all 13296
sessions of the municipal court, although not necessarily in the 13297
courtroom, and may administer oaths to witnesses and jurors and 13298
receive verdicts. 13299

Sec. 1907.24. (A) Subject to division (C) of this section, a 13300
county court shall fix and tax fees and costs as follows: 13301

(1) The county court shall require an advance deposit for the 13302
filing of any new civil action or proceeding when required by 13303
division (C) of this section and, in all other cases, shall 13304
establish a schedule of fees and costs to be taxed in any civil or 13305
criminal action or proceeding. 13306

(2) The county court by rule may require an advance deposit 13307
for the filing of a civil action or proceeding and publication 13308
fees as provided in section 2701.09 of the Revised Code. The court 13309
may waive an advance deposit requirement upon the presentation of 13310
an affidavit or other evidence that establishes that a party is 13311

unable to make the requisite deposit. 13312

(3) When a party demands a jury trial in a civil action or 13313
proceeding, the county court may require the party to make an 13314
advance deposit as fixed by rule of court, unless the court 13315
concludes, on the basis of an affidavit or other evidence 13316
presented by the party, that the party is unable to make the 13317
requisite deposit. If a jury is called, the county court shall tax 13318
the fees of a jury as costs. 13319

(4) In a civil or criminal action or proceeding, the county 13320
court shall fix the fees of witnesses in accordance with sections 13321
2335.06 and 2335.08 of the Revised Code. 13322

(5) A county court may tax as part of the costs in a trial of 13323
the cause, in an amount fixed by rule of court, a reasonable 13324
charge for driving, towing, carting, storing, keeping, and 13325
preserving motor vehicles and other personal property recovered or 13326
seized in a proceeding. 13327

(6) The court shall preserve chattel property seized under a 13328
writ or process issued by the court pending final disposition for 13329
the benefit of all interested persons. The court may place the 13330
chattel property in storage when necessary or proper for its 13331
preservation. The custodian of chattel property so stored shall 13332
not be required to part with the possession of the property until 13333
a reasonable charge, to be fixed by the court, is paid. 13334

(7) The county court, as it determines, may refund all 13335
deposits and advance payments of fees and costs, including those 13336
for jurors and summoning jurors, when they have been paid by the 13337
losing party. 13338

(8) The court may tax as part of costs charges for the 13339
publication of legal notices required by statute or order of 13340
court, as provided by section 7.13 of the Revised Code. 13341

(B)(1) The county court may determine that, for the efficient 13342
operation of the court, additional funds are necessary to acquire 13343
and pay for special projects of the court including, but not 13344
limited to, the acquisition of additional facilities or the 13345
rehabilitation of existing facilities, the acquisition of 13346
equipment, the hiring and training of staff, community service 13347
programs, mediation or dispute resolution services, the employment 13348
of magistrates, the training and education of judges, acting 13349
judges, and magistrates, and other related services. Upon that 13350
determination, the court by rule may charge a fee, in addition to 13351
all other court costs, on the filing of each criminal cause, civil 13352
action or proceeding, or judgment by confession. 13353

If the county court offers a special program or service in 13354
cases of a specific type, the county court by rule may assess an 13355
additional charge in a case of that type, over and above court 13356
costs, to cover the special program or service. The county court 13357
shall adjust the special assessment periodically, but not 13358
retroactively, so that the amount assessed in those cases does not 13359
exceed the actual cost of providing the service or program. 13360

All moneys collected under division (B) of this section shall 13361
be paid to the county treasurer for deposit into either a general 13362
special projects fund or a fund established for a specific special 13363
project. Moneys from a fund of that nature shall be disbursed upon 13364
an order of the court in an amount no greater than the actual cost 13365
to the court of a project. If a specific fund is terminated 13366
because of the discontinuance of a program or service established 13367
under division (B) of this section, the county court may order 13368
that moneys remaining in the fund be transferred to an account 13369
established under this division for a similar purpose. 13370

(2) As used in division (B) of this section: 13371

(a) "Criminal cause" means a charge alleging the violation of 13372

a statute or ordinance, or subsection of a statute or ordinance, 13373
that requires a separate finding of fact or a separate plea before 13374
disposition and of which the defendant may be found guilty, 13375
whether filed as part of a multiple charge on a single summons, 13376
citation, or complaint or as a separate charge on a single 13377
summons, citation, or complaint. "Criminal cause" does not include 13378
separate violations of the same statute or ordinance, or 13379
subsection of the same statute or ordinance, unless each charge is 13380
filed on a separate summons, citation, or complaint. 13381

(b) "Civil action or proceeding" means any civil litigation 13382
that must be determined by judgment entry. 13383

(C) Subject to division (E) of this section, the county court 13384
shall collect in all its divisions except the small claims 13385
division the sum of ~~fifteen~~ twenty-five dollars as additional 13386
filing fees in each new civil action or proceeding for the 13387
charitable public purpose of providing financial assistance to 13388
legal aid societies that operate within the state. Subject to 13389
division (E) of this section, the county court shall collect in 13390
its small claims division the sum of ~~seven~~ ten dollars as 13391
additional filing fees in each new civil action or proceeding for 13392
the charitable public purpose of providing financial assistance to 13393
legal aid societies that operate within the state. This division 13394
does not apply to any execution on a judgment, proceeding in aid 13395
of execution, or other post-judgment proceeding arising out of a 13396
civil action. The filing fees required to be collected under this 13397
division shall be in addition to any other court costs imposed in 13398
the action or proceeding and shall be collected at the time of the 13399
filing of the action or proceeding. The court shall not waive the 13400
payment of the additional filing fees in a new civil action or 13401
proceeding unless the court waives the advanced payment of all 13402
filing fees in the action or proceeding. All such moneys collected 13403
during a month shall be transmitted on or before the twentieth day 13404

of the following month by the clerk of the court to the treasurer 13405
of state in a manner prescribed by the treasurer of state or by 13406
the Ohio legal assistance foundation. The moneys then shall be 13407
deposited by the treasurer of state to the credit of the legal aid 13408
fund established under section 120.52 of the Revised Code. 13409

The court may retain up to one per cent of the moneys it 13410
collects under this division to cover administrative costs, 13411
including the hiring of any additional personnel necessary to 13412
implement this division. 13413

(D) The county court shall establish by rule a schedule of 13414
fees for miscellaneous services performed by the county court or 13415
any of its judges in accordance with law. If judges of the court 13416
of common pleas perform similar services, the fees prescribed in 13417
the schedule shall not exceed the fees for those services 13418
prescribed by the court of common pleas. 13419

(E) Under the circumstances described in sections 2969.21 to 13420
2969.27 of the Revised Code, the clerk of the county court shall 13421
charge the fees and perform the other duties specified in those 13422
sections. 13423

Sec. 2113.041. (A) The administrator of the estate recovery 13424
program established pursuant to section 5111.11 of the Revised 13425
Code may present an affidavit to a financial institution 13426
requesting that the financial institution release account proceeds 13427
to recover the cost of services correctly provided to a medicaid 13428
recipient who is subject to the estate recovery program. The 13429
affidavit shall include all of the following information: 13430

(1) The name of the decedent; 13431

(2) The name of any person who gave notice that the decedent 13432
was a medicaid recipient and that person's relationship to the 13433
decedent; 13434

(3) The name of the financial institution;	13435
(4) The account number;	13436
(5) A description of the claim for estate recovery;	13437
(6) The amount of funds to be recovered.	13438
(B) A financial institution may release account proceeds to the administrator of the estate recovery program if all of the following apply:	13439 13440 13441
(1) The decedent held an account at the financial institution that was in the decedent's name only.	13442 13443
(2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent.	13444 13445
(3) The decedent has no outstanding debts known to the administrator of the estate recovery program.	13446 13447
(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received.	13448 13449 13450
(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim.	13451 13452 13453 13454 13455 13456 13457
Sec. 2151.031. As used in this chapter, an "abused child" includes any child who:	13458 13459
(A) Is the victim of "sexual activity" as defined under Chapter 2907. of the Revised Code, where such activity would constitute an offense under that chapter, except that the court need not find that any person has been convicted of the offense in	13460 13461 13462 13463

order to find that the child is an abused child; 13464

(B) Is endangered as defined in section 2919.22 of the 13465
Revised Code, except that the court need not find that any person 13466
has been convicted under that section in order to find that the 13467
child is an abused child; 13468

(C) Exhibits evidence of any physical or mental injury or 13469
death, inflicted other than by accidental means, or an injury or 13470
death which is at variance with the history given of it. Except as 13471
provided in division (D) of this section, a child exhibiting 13472
evidence of corporal punishment or other physical disciplinary 13473
measure by a parent, guardian, custodian, person having custody or 13474
control, or person in loco parentis of a child is not an abused 13475
child under this division if the measure is not prohibited under 13476
section 2919.22 of the Revised Code. 13477

(D) Because of the acts of ~~his~~ the child's parents, guardian, 13478
or custodian, suffers physical or mental injury that harms or 13479
threatens to harm the child's health or welfare; 13480

(E) Is subjected to out-of-home care child abuse; 13481

(F) Is exposed to methamphetamine or to an ephedrine product, 13482
phenylpropanolamine product, or pseudoephedrine product in 13483
violation of division (A)(7) of section 2919.22 of the Revised 13484
Code, to conduct in violation of section 2925.04 of the Revised 13485
Code that involves the manufacture of methamphetamine, or to 13486
conduct in violation of division (A)(1) of section 2925.041 of the 13487
Revised Code, except that the court need not find that any person 13488
has been convicted under the specified section in order to find 13489
that the child is an abused child. 13490

Sec. 2151.352. A child, ~~or~~ the child's parents, or custodian, 13491
or any other person in loco parentis of ~~such~~ the child is entitled 13492
to representation by legal counsel at all stages of the 13493

proceedings under this chapter or Chapter 2152. of the Revised 13494
Code ~~and if.~~ If, as an indigent person, ~~any such person~~ a party is 13495
unable to employ counsel, the party is entitled to have counsel 13496
provided for the person pursuant to Chapter 120. of the Revised 13497
Code except in civil matters in which the juvenile court is 13498
exercising jurisdiction pursuant to division (A)(2), (3), (9), 13499
(10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); 13500
(D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 13501
party appears without counsel, the court shall ascertain whether 13502
the party knows of the party's right to counsel and of the party's 13503
right to be provided with counsel if the party is an indigent 13504
person. The court may continue the case to enable a party to 13505
obtain counsel ~~or~~, to be represented by the county public defender 13506
or the joint county public defender ~~and shall provide, or to be~~ 13507
appointed counsel upon request pursuant to Chapter 120. of the 13508
Revised Code. Counsel must be provided for a child not represented 13509
by the child's parent, guardian, or custodian. If the interests of 13510
two or more such parties conflict, separate counsel shall be 13511
provided for each of them. 13512

Section 2935.14 of the Revised Code applies to any child 13513
taken into custody. The parents, custodian, or guardian of such 13514
child, and any attorney at law representing them or the child, 13515
shall be entitled to visit such child at any reasonable time, be 13516
present at any hearing involving the child, and be given 13517
reasonable notice of such hearing. 13518

Any report or part thereof concerning such child, which is 13519
used in the hearing and is pertinent thereto, shall for good cause 13520
shown be made available to any attorney at law representing such 13521
child and to any attorney at law representing the parents, 13522
custodian, or guardian of such child, upon written request prior 13523
to any hearing involving such child. 13524

Sec. 2151.416. (A) Each agency that is required by section 13525
2151.412 of the Revised Code to prepare a case plan for a child 13526
shall complete a semiannual administrative review of the case plan 13527
no later than six months after the earlier of the date on which 13528
the complaint in the case was filed or the child was first placed 13529
in shelter care. After the first administrative review, the agency 13530
shall complete semiannual administrative reviews no later than 13531
every six months. If the court issues an order pursuant to section 13532
2151.414 or 2151.415 of the Revised Code, the agency shall 13533
complete an administrative review no later than six months after 13534
the court's order and continue to complete administrative reviews 13535
no later than every six months after the first review, except that 13536
the court hearing held pursuant to section 2151.417 of the Revised 13537
Code may take the place of any administrative review that would 13538
otherwise be held at the time of the court hearing. When 13539
conducting a review, the child's health and safety shall be the 13540
paramount concern. 13541

(B) Each administrative review required by division (A) of 13542
this section shall be conducted by a review panel of at least 13543
three persons, including, but not limited to, both of the 13544
following: 13545

(1) A caseworker with day-to-day responsibility for, or 13546
familiarity with, the management of the child's case plan; 13547

(2) A person who is not responsible for the management of the 13548
child's case plan or for the delivery of services to the child or 13549
the parents, guardian, or custodian of the child. 13550

(C) Each semiannual administrative review shall include, but 13551
not be limited to, a joint meeting by the review panel with the 13552
parents, guardian, or custodian of the child, the guardian ad 13553
litem of the child, and the child's foster care provider and shall 13554
include an opportunity for those persons to submit any written 13555

materials to be included in the case record of the child. If a
parent, guardian, custodian, guardian ad litem, or foster care
provider of the child cannot be located after reasonable efforts
to do so or declines to participate in the administrative review
after being contacted, the agency does not have to include them in
the joint meeting.

(D) The agency shall prepare a written summary of the
semiannual administrative review that shall include, but not be
limited to, all of the following:

(1) A conclusion regarding the safety and appropriateness of
the child's foster care placement;

(2) The extent of the compliance with the case plan of all
parties;

(3) The extent of progress that has been made toward
alleviating the circumstances that required the agency to assume
temporary custody of the child;

(4) An estimated date by which the child may be returned to
and safely maintained in the child's home or placed for adoption
or legal custody;

(5) An updated case plan that includes any changes that the
agency is proposing in the case plan;

(6) The recommendation of the agency as to which agency or
person should be given custodial rights over the child for the
six-month period after the administrative review;

(7) The names of all persons who participated in the
administrative review.

(E) The agency shall file the summary with the court no later
than seven days after the completion of the administrative review.
If the agency proposes a change to the case plan as a result of
the administrative review, the agency shall file the proposed

change with the court at the time it files the summary. The agency 13586
shall give notice of the summary and proposed change in writing 13587
before the end of the next day after filing them to all parties 13588
and the child's guardian ad litem. All parties and the guardian ad 13589
litem shall have seven days after the date the notice is sent to 13590
object to and request a hearing on the proposed change. 13591

(1) If the court receives a timely request for a hearing, the 13592
court shall schedule a hearing pursuant to section 2151.417 of the 13593
Revised Code to be held not later than thirty days after the court 13594
receives the request. The court shall give notice of the date, 13595
time, and location of the hearing to all parties and the guardian 13596
ad litem. The agency may implement the proposed change after the 13597
hearing, if the court approves it. The agency shall not implement 13598
the proposed change unless it is approved by the court. 13599

(2) If the court does not receive a timely request for a 13600
hearing, the court may approve the proposed change without a 13601
hearing. If the court approves the proposed change without a 13602
hearing, it shall journalize the case plan with the change not 13603
later than fourteen days after the change is filed with the court. 13604
If the court does not approve the proposed change to the case 13605
plan, it shall schedule a review hearing to be held pursuant to 13606
section 2151.417 of the Revised Code no later than thirty days 13607
after the expiration of the fourteen-day time period and give 13608
notice of the date, time, and location of the hearing to all 13609
parties and the guardian ad litem of the child. If, despite the 13610
requirements of this division and division (D) of section 2151.417 13611
of the Revised Code, the court neither approves and journalizes 13612
the proposed change nor conducts a hearing, the agency may 13613
implement the proposed change not earlier than fifteen days after 13614
it is submitted to the court. 13615

(F) The director of job and family services may adopt rules 13616
pursuant to Chapter 119. of the Revised Code for procedures and 13617

standard forms for conducting administrative reviews pursuant to 13618
this section. 13619

(G) The juvenile court that receives the written summary of 13620
the administrative review, upon determining, either from the 13621
written summary, case plan, or otherwise, that the custody or care 13622
arrangement is not in the best interest of the child, may 13623
terminate the custody of an agency and place the child in the 13624
custody of another institution or association certified by the 13625
department of job and family services under section 5103.03 of the 13626
Revised Code. 13627

(H) The department of job and family services shall report 13628
annually to the public and to the general assembly on the results 13629
of the review of case plans of each agency ~~and on the results of~~ 13630
~~the summaries submitted to the department under section 3107.10 of~~ 13631
~~the Revised Code.~~ The annual report shall include any information 13632
that is required by the department, including, but not limited to, 13633
all of the following: 13634

(1) A statistical analysis of the administrative reviews 13635
conducted pursuant to this section and section 2151.417 of the 13636
Revised Code; 13637

(2) The number of children in temporary or permanent custody 13638
for whom an administrative review was conducted, the number of 13639
children whose custody status changed during the period, the 13640
number of children whose residential placement changed during the 13641
period, and the number of residential placement changes for each 13642
child during the period; 13643

(3) An analysis of the utilization of public social services 13644
by agencies and parents or guardians, and the utilization of the 13645
adoption listing service of the department pursuant to section 13646
5103.154 of the Revised Code; 13647

~~(4) A compilation and analysis of data submitted to the 13648~~

~~department under section 3107.10 of the Revised Code.~~

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Sec. 2151.86. (A)(1) The appointing or hiring officer of any entity that appoints or employs any person responsible for a child's care in out-of-home care shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care, except that section 3319.39 of the Revised Code shall apply instead of this section if the out-of-home care entity is a public school, educational service center, or chartered nonpublic school.

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(2) The administrative director of an agency, or attorney, who arranges an adoption for a prospective adoptive parent shall request the superintendent of BCII to conduct a criminal records check with respect to that prospective adoptive parent and all persons eighteen years of age or older who reside with the prospective adoptive parent.

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(3) Before a recommending agency submits a recommendation to the department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, the administrative director of the agency shall request that the superintendent of BCII conduct a criminal records check with respect to the prospective foster caregiver and all other persons eighteen years of age or older who reside with the foster caregiver.

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(4) The executive director of a public children services agency that receives an application under section 5101.802 of the Revised Code for the kinship caregiver subsidy program shall request that the superintendent of BCII conduct a criminal records check with respect to the kinship caregiver and all other persons eighteen years of age or older who reside with the kinship

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caregiver. 13680

(B) If a person subject to a criminal records check does not 13681
present proof that the person has been a resident of this state 13682
for the five-year period immediately prior to the date upon which 13683
the criminal records check is requested or does not provide 13684
evidence that within that five-year period the superintendent of 13685
BCII has requested information about the person from the federal 13686
bureau of investigation in a criminal records check, the 13687
appointing or hiring officer, administrative or executive 13688
director, or attorney shall request that the superintendent of 13689
BCII obtain information from the federal bureau of investigation 13690
as a part of the criminal records check. If the person subject to 13691
the criminal records check presents proof that the person has been 13692
a resident of this state for that five-year period, the officer, 13693
director, or attorney may request that the superintendent of BCII 13694
include information from the federal bureau of investigation in 13695
the criminal records check. 13696

An appointing or hiring officer, administrative or executive 13697
director, or attorney required by division (A) of this section to 13698
request a criminal records check shall provide to each person 13699
subject to a criminal records check a copy of the form prescribed 13700
pursuant to division (C)(1) of section 109.572 of the Revised Code 13701
and a standard impression sheet to obtain fingerprint impressions 13702
prescribed pursuant to division (C)(2) of section 109.572 of the 13703
Revised Code, obtain the completed form and impression sheet from 13704
the person, and forward the completed form and impression sheet to 13705
the superintendent of BCII at the time the criminal records check 13706
is requested. 13707

Any person subject to a criminal records check who receives 13708
pursuant to this division a copy of the form prescribed pursuant 13709
to division (C)(1) of section 109.572 of the Revised Code and a 13710
copy of an impression sheet prescribed pursuant to division (C)(2) 13711

of that section and who is requested to complete the form and 13712
provide a set of fingerprint impressions shall complete the form 13713
or provide all the information necessary to complete the form and 13714
shall provide the impression sheet with the impressions of the 13715
person's fingerprints. If a person subject to a criminal records 13716
check, upon request, fails to provide the information necessary to 13717
complete the form or fails to provide impressions of the person's 13718
fingerprints, the appointing or hiring officer shall not appoint 13719
or employ the person as a person responsible for a child's care in 13720
out-of-home care, a probate court may not issue a final decree of 13721
adoption or an interlocutory order of adoption making the person 13722
an adoptive parent, ~~and~~ the department of job and family services 13723
shall not issue a certificate authorizing the prospective foster 13724
caregiver to operate a foster home, and the public children 13725
services agency shall deny the application for the kinship 13726
caregiver subsidy program. 13727

(C)(1) No appointing or hiring officer shall appoint or 13728
employ a person as a person responsible for a child's care in 13729
out-of-home care, the department of job and family services shall 13730
not issue a certificate under section 5103.03 of the Revised Code 13731
authorizing a prospective foster caregiver to operate a foster 13732
home, no public children services agency shall approve an 13733
application for the kinship caregiver subsidy program, and no 13734
probate court shall issue a final decree of adoption or an 13735
interlocutory order of adoption making a person an adoptive parent 13736
if the person or, in the case of a prospective foster caregiver 13737
~~or,~~ prospective adoptive parent, or kinship caregiver, any person 13738
eighteen years of age or older who resides with the prospective 13739
foster caregiver ~~or,~~ prospective adoptive parent, or kinship 13740
caregiver previously has been convicted of or pleaded guilty to 13741
any of the following, unless the person meets rehabilitation 13742
standards established in rules adopted under division (F) of this 13743

section: 13744

(a) A violation of section 2903.01, 2903.02, 2903.03, 13745
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 13746
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 13747
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 13748
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 13749
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 13750
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 13751
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 13752
violation of section 2905.04 of the Revised Code as it existed 13753
prior to July 1, 1996, a violation of section 2919.23 of the 13754
Revised Code that would have been a violation of section 2905.04 13755
of the Revised Code as it existed prior to July 1, 1996, had the 13756
violation been committed prior to that date, a violation of 13757
section 2925.11 of the Revised Code that is not a minor drug 13758
possession offense, or felonious sexual penetration in violation 13759
of former section 2907.12 of the Revised Code; 13760

(b) A violation of an existing or former law of this state, 13761
any other state, or the United States that is substantially 13762
equivalent to any of the offenses described in division (C)(1)(a) 13763
of this section. 13764

(2) The appointing or hiring officer may appoint or employ a 13765
person as a person responsible for a child's care in out-of-home 13766
care conditionally until the criminal records check required by 13767
this section is completed and the officer receives the results of 13768
the criminal records check. If the results of the criminal records 13769
check indicate that, pursuant to division (C)(1) of this section, 13770
the person subject to the criminal records check does not qualify 13771
for appointment or employment, the officer shall release the 13772
person from appointment or employment. 13773

(D) The appointing or hiring officer, administrative or 13774
executive director, or attorney shall pay to the bureau of 13775

criminal identification and investigation the fee prescribed 13776
pursuant to division (C)(3) of section 109.572 of the Revised Code 13777
for each criminal records check conducted in accordance with that 13778
section upon a request pursuant to division (A) of this section. 13779
The officer, director, or attorney may charge the person subject 13780
to the criminal records check a fee for the costs the officer, 13781
director, or attorney incurs in obtaining the criminal records 13782
check. A fee charged under this division shall not exceed the 13783
amount of fees the officer, director, or attorney pays for the 13784
criminal records check. If a fee is charged under this division, 13785
the officer, director, or attorney shall notify the person who is 13786
the applicant at the time of the person's initial application for 13787
appointment or employment, an adoption to be arranged, ~~or~~ a 13788
certificate to operate a foster home, or the kinship caregiver 13789
subsidy program of the amount of the fee and that, unless the fee 13790
is paid, the person who is the applicant will not be considered 13791
for appointment or employment or as an adoptive parent or foster 13792
caregiver or will have the application for the kinship caregiver 13793
subsidy program denied. 13794

(E) The report of any criminal records check conducted by the 13795
bureau of criminal identification and investigation in accordance 13796
with section 109.572 of the Revised Code and pursuant to a request 13797
made under division (A) of this section is not a public record for 13798
the purposes of section 149.43 of the Revised Code and shall not 13799
be made available to any person other than the person who is the 13800
subject of the criminal records check or the person's 13801
representative; the appointing or hiring officer, administrative 13802
or executive director, or attorney requesting the criminal records 13803
check or the officer's, director's, or attorney's representative; 13804
the department of job and family services or a county department 13805
of job and family services; a public children services agency; and 13806
any court, hearing officer, or other necessary individual involved 13807
in a case dealing with the denial of employment, a final decree of 13808

adoption or interlocutory order of adoption, ~~or~~ a foster home certificate, or the kinship caregiver subsidy program.

(F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (C)(1) of this section must meet for an appointing or hiring officer to appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court to issue a final decree of adoption or interlocutory order of adoption making the person an adoptive parent, ~~or~~ the department to issue a certificate authorizing the prospective foster caregiver to operate a foster home, or a public children services agency to approve an application for the kinship caregiver subsidy program.

(G) An appointing or hiring officer, administrative or executive director, or attorney required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment, an adoption to be arranged, ~~or~~ a foster home certificate, or the kinship caregiver subsidy program, that the person subject to the criminal records check is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code.

(H) The department of job and family services may waive the requirement that a criminal records check based on fingerprints be conducted for an adult resident of a prospective adoptive or foster home or the home of a foster caregiver if the recommending agency documents to the department's satisfaction that the adult resident is physically unable to comply with the fingerprinting

requirement and poses no danger to foster children or adoptive children who may be placed in the home. In such cases, the recommending or approving agency shall request that the bureau of criminal identification and investigation conduct a criminal records check using the person's name and social security number.

(I) As used in this section: 13846

(1) "Children's hospital" means any of the following: 13847

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age; 13848
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(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age; 13853
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(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (I)(3)(a) of this section. 13860
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 13864
13865

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. 13866
13867

(4) "Kinship caregiver subsidy program" means the program created under section 5101.802 of the Revised Code. 13868
13869

(5) "Person responsible for a child's care in out-of-home 13870

care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

~~(5)~~(6) "Person subject to a criminal records check" means the following:

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care;

(b) A prospective adoptive parent;

(c) A prospective foster caregiver;

(d) A kinship caregiver who applies for the kinship caregiver subsidy program;

(e) A person eighteen years old or older who resides with a prospective foster caregiver or, a prospective adoptive parent, or an applicant for the kinship caregiver subsidy program.

~~(6)~~(7) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes.

~~(7)~~(8) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation.

Sec. 2152.43. (A) A board of county commissioners that provides a detention facility and the board of trustees of a district detention facility may apply to the department of youth services under section 5139.281 of the Revised Code for assistance in defraying the cost of operating and maintaining the facility. The application shall be made on forms prescribed and furnished by the department.

The board of county commissioners of each county that 13901
participates in a district detention facility may apply to the 13902
department of youth services for assistance in defraying the 13903
county's share of the cost of acquisition or construction of the 13904
facility, as provided in section 5139.271 of the Revised Code. 13905
Application shall be made in accordance with rules adopted by the 13906
department. No county shall be reimbursed for expenses incurred in 13907
the acquisition or construction of a district detention facility 13908
that serves a district having a population of less than one 13909
hundred thousand. 13910

(B)(1) The joint boards of county commissioners of district 13911
detention facilities shall defray all necessary expenses of the 13912
facility not paid from funds made available under section 5139.281 13913
of the Revised Code, through annual assessments of taxes, through 13914
gifts, or through other means. 13915

If any county withdraws from a district under division (D) of 13916
section 2152.41 of the Revised Code, it shall continue to have 13917
levied against its tax duplicate any tax levied by the district 13918
during the period in which the county was a member of the district 13919
for current operating expenses, permanent improvements, or the 13920
retirement of bonded indebtedness. The levy shall continue to be a 13921
levy against the tax duplicate of the county until the time that 13922
it expires or is renewed. 13923

(2) The current expenses of maintaining the facility not paid 13924
from funds made available under section 5139.281 of the Revised 13925
Code or division (C) of this section, and the cost of ordinary 13926
repairs to the facility, shall be paid by each county in 13927
accordance with one of the following methods as approved by the 13928
joint board of county commissioners: 13929

(a) In proportion to the number of children from that county 13930
who are maintained in the facility during the year; 13931

(b) By a levy submitted by the joint board of county commissioners under division (A) of section 5705.19 of the Revised Code and approved by the electors of the district;	13932 13933 13934
(c) In proportion to the taxable property of each county, as shown by its tax duplicate;	13935 13936
(d) In any combination of the methods for payment described in division (B)(2)(a), (b), or (c) of this section <u>other method agreed upon by unanimous vote of the joint board of county commissioners.</u>	13937 13938 13939 13940
(C) When any person donates or bequeaths any real or personal property to a county or district detention facility, the juvenile court or the trustees of the facility may accept and use the gift, consistent with the best interest of the institution and the conditions of the gift.	13941 13942 13943 13944 13945
Sec. 2152.74. (A) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.	13946 13947 13948
(B)(1) A child who is adjudicated a delinquent child for committing an act listed in division (D) of this section and who is committed to the custody of the department of youth services, placed in a detention facility or district detention facility pursuant to division (A)(3) of section 2152.19 of the Revised Code, or placed in a school, camp, institution, or other facility for delinquent children described in division (A)(2) of section 2152.19 of the Revised Code shall submit to a DNA specimen collection procedure administered by the director of youth services if committed to the department or by the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which the child was committed or in	13949 13950 13951 13952 13953 13954 13955 13956 13957 13958 13959 13960 13961

which the child was placed. If the court commits the child to the
department of youth services, the director of youth services shall
cause the DNA specimen to be collected from the child during the
intake process at an institution operated by or under the control
of the department. If the court commits the child to or places the
child in a detention facility, district detention facility,
school, camp, institution, or other facility for delinquent
children, the chief administrative officer of the detention
facility, district detention facility, school, camp, institution,
or facility to which the child is committed or in which the child
is placed shall cause the DNA specimen to be collected from the
child during the intake process for the detention facility,
district detention facility, school, camp, institution, or
facility. In accordance with division (C) of this section, the
director or the chief administrative officer shall cause the DNA
specimen to be forwarded to the bureau of criminal identification
and investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected from the child in accordance with division (C) of this
section.

(2) If a child is adjudicated a delinquent child for
committing an act listed in division (D) of this section, is
committed to or placed in the department of youth services, a
detention facility or district detention facility, or a school,
camp, institution, or other facility for delinquent children, and
does not submit to a DNA specimen collection procedure pursuant to
division (B)(1) of this section, prior to the child's release from
the custody of the department of youth services, from the custody
of the detention facility or district detention facility, or from
the custody of the school, camp, institution, or facility, the
child shall submit to, and the director of youth services or the
chief administrator of the detention facility, district detention

facility, school, camp, institution, or facility to which the
child is committed or in which the child was placed shall
administer, a DNA specimen collection procedure at the institution
operated by or under the control of the department of youth
services or at the detention facility, district detention
facility, school, camp, institution, or facility to which the
child is committed or in which the child was placed. In accordance
with division (C) of this section, the director or the chief
administrative officer shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood
from the child or a similarly invasive procedure, a physician,
registered nurse, licensed practical nurse, duly licensed clinical
laboratory technician, or other qualified medical practitioner
shall collect in a medically approved manner the DNA specimen
required to be collected pursuant to division (B) of this section.
If the DNA specimen is collected by swabbing for buccal cells or a
similarly noninvasive procedure, this section does not require
that the DNA specimen be collected by a qualified medical
practitioner of that nature. No later than fifteen days after the
date of the collection of the DNA specimen, the director of youth
services or the chief administrative officer of the detention
facility, district detention facility, school, camp, institution,
or other facility for delinquent children to which the child is
committed or in which the child was placed shall cause the DNA
specimen to be forwarded to the bureau of criminal identification
and investigation in accordance with procedures established by the
superintendent of the bureau under division (H) of section 109.573
of the Revised Code. The bureau shall provide the specimen vials,

mailing tubes, labels, postage, and instruction needed for the 14026
collection and forwarding of the DNA specimen to the bureau. 14027

(D) The director of youth services and the chief 14028
administrative officer of a detention facility, district detention 14029
facility, school, camp, institution, or other facility for 14030
delinquent children shall cause a DNA specimen to be collected in 14031
accordance with divisions (B) and (C) of this section from each 14032
child in its custody who is adjudicated a delinquent child for 14033
committing any of the following acts: 14034

(1) A violation of section 2903.01, 2903.02, 2903.11, 14035
2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or 14036
2911.12 of the Revised Code; 14037

(2) A violation of section 2907.12 of the Revised Code as it 14038
existed prior to September 3, 1996; 14039

(3) An attempt to commit a violation of section 2903.01, 14040
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to 14041
commit a violation of section 2907.12 of the Revised Code as it 14042
existed prior to September 3, 1996; 14043

(4) A violation of any law that arose out of the same facts 14044
and circumstances and same act as did a charge against the child 14045
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 14046
2907.03, 2907.05, or 2911.11 of the Revised Code that previously 14047
was dismissed or amended or as did a charge against the child of a 14048
violation of section 2907.12 of the Revised Code as it existed 14049
prior to September 3, 1996, that previously was dismissed or 14050
amended; 14051

(5) A violation of section 2905.02 or 2919.23 of the Revised 14052
Code that would have been a violation of section 2905.04 of the 14053
Revised Code as it existed prior to July 1, 1996, had the 14054
violation been committed prior to that date; 14055

(6) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(7) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(8) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of youth services and the chief administrative officer of a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children is not required to comply with this section in relation to the following acts until the superintendent of the bureau of criminal identification and investigation gives agencies in the juvenile justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the

child of a violation of section 2903.11, 2911.01, 2911.02, or 14087
2911.12 of the Revised Code that previously was dismissed or 14088
amended; 14089

(4) A violation of section 2923.01 of the Revised Code 14090
involving a conspiracy to commit a violation of section 2903.01, 14091
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 14092
Revised Code; 14093

(5) A violation of section 2923.03 of the Revised Code 14094
involving complicity in committing a violation of section 2903.01, 14095
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 14096
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 14097
violation of section 2907.12 of the Revised Code as it existed 14098
prior to September 3, 1996. 14099

Sec. 2303.201. (A)(1) The court of common pleas of any county 14100
may determine that for the efficient operation of the court 14101
additional funds are required to computerize the court, to make 14102
available computerized legal research services, or to do both. 14103
Upon making a determination that additional funds are required for 14104
either or both of those purposes, the court shall authorize and 14105
direct the clerk of the court of common pleas to charge one 14106
additional fee, not to exceed three dollars, on the filing of each 14107
cause of action or appeal under divisions (A), (Q), and (U) of 14108
section 2303.20 of the Revised Code. 14109

(2) All fees collected under division (A)(1) of this section 14110
shall be paid to the county treasurer. The treasurer shall place 14111
the funds from the fees in a separate fund to be disbursed, upon 14112
an order of the court, in an amount not greater than the actual 14113
cost to the court of procuring and maintaining computerization of 14114
the court, computerized legal research services, or both. 14115

(3) If the court determines that the funds in the fund 14116

described in division (A)(2) of this section are more than 14117
sufficient to satisfy the purpose for which the additional fee 14118
described in division (A)(1) of this section was imposed, the 14119
court may declare a surplus in the fund and expend those surplus 14120
funds for other appropriate technological expenses of the court. 14121

(B)(1) The court of common pleas of any county may determine 14122
that, for the efficient operation of the court, additional funds 14123
are required to computerize the office of the clerk of the court 14124
of common pleas and, upon that determination, authorize and direct 14125
the clerk of the court of common pleas to charge an additional 14126
fee, not to exceed ten dollars, on the filing of each cause of 14127
action or appeal, on the filing, docketing, and endorsing of each 14128
certificate of judgment, or on the docketing and indexing of each 14129
aid in execution or petition to vacate, revive, or modify a 14130
judgment under divisions (A), (P), (Q), (T), and (U) of section 14131
2303.20 of the Revised Code. Subject to division (B)(2) of this 14132
section, all moneys collected under division (B)(1) of this 14133
section shall be paid to the county treasurer to be disbursed, 14134
upon an order of the court of common pleas and subject to 14135
appropriation by the board of county commissioners, in an amount 14136
no greater than the actual cost to the court of procuring and 14137
maintaining computer systems for the office of the clerk of the 14138
court of common pleas. 14139

(2) If the court of common pleas of a county makes the 14140
determination described in division (B)(1) of this section, the 14141
board of county commissioners of that county may issue one or more 14142
general obligation bonds for the purpose of procuring and 14143
maintaining the computer systems for the office of the clerk of 14144
the court of common pleas. In addition to the purposes stated in 14145
division (B)(1) of this section for which the moneys collected 14146
under that division may be expended, the moneys additionally may 14147
be expended to pay debt charges on and financing costs related to 14148

any general obligation bonds issued pursuant to division (B)(2) of 14149
this section as they become due. General obligation bonds issued 14150
pursuant to division (B)(2) of this section are Chapter 133. 14151
securities. 14152

(C) The court of common pleas shall collect the sum of 14153
~~fifteen~~ twenty-five dollars as additional filing fees in each new 14154
civil action or proceeding for the charitable public purpose of 14155
providing financial assistance to legal aid societies that operate 14156
within the state. This division does not apply to proceedings 14157
concerning annulments, dissolutions of marriage, divorces, legal 14158
separation, spousal support, marital property or separate property 14159
distribution, support, or other domestic relations matters; to a 14160
juvenile division of a court of common pleas; to a probate 14161
division of a court of common pleas, except that the additional 14162
filing fees shall apply to name change, guardianship, ~~and~~ 14163
adoption, and decedents' estate proceedings; or to an execution on 14164
a judgment, proceeding in aid of execution, or other post-judgment 14165
proceeding arising out of a civil action. The filing fees required 14166
to be collected under this division shall be in addition to any 14167
other filing fees imposed in the action or proceeding and shall be 14168
collected at the time of the filing of the action or proceeding. 14169
The court shall not waive the payment of the additional filing 14170
fees in a new civil action or proceeding unless the court waives 14171
the advanced payment of all filing fees in the action or 14172
proceeding. All such moneys collected during a month shall be 14173
transmitted on or before the twentieth day of the following month 14174
by the clerk of the court to the treasurer of state in a manner 14175
prescribed by the treasurer of state or by the Ohio legal 14176
assistance foundation. The moneys then shall be deposited by the 14177
treasurer of state to the credit of the legal aid fund established 14178
under section 120.52 of the Revised Code. 14179

The court may retain up to one per cent of the moneys it 14180

collects under this division to cover administrative costs, 14181
including the hiring of any additional personnel necessary to 14182
implement this division. 14183

(D) On and after the thirtieth day after December 9, 1994, 14184
the court of common pleas shall collect the sum of thirty-two 14185
dollars as additional filing fees in each new action or proceeding 14186
for annulment, divorce, or dissolution of marriage for the purpose 14187
of funding shelters for victims of domestic violence pursuant to 14188
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 14189
required to be collected under this division shall be in addition 14190
to any other filing fees imposed in the action or proceeding and 14191
shall be collected at the time of the filing of the action or 14192
proceeding. The court shall not waive the payment of the 14193
additional filing fees in a new action or proceeding for 14194
annulment, divorce, or dissolution of marriage unless the court 14195
waives the advanced payment of all filing fees in the action or 14196
proceeding. On or before the twentieth day of each month, all 14197
moneys collected during the immediately preceding month pursuant 14198
to this division shall be deposited by the clerk of the court into 14199
the county treasury in the special fund used for deposit of 14200
additional marriage license fees as described in section 3113.34 14201
of the Revised Code. Upon their deposit into the fund, the moneys 14202
shall be retained in the fund and expended only as described in 14203
section 3113.34 of the Revised Code. 14204

(E)(1) The court of common pleas may determine that, for the 14205
efficient operation of the court, additional funds are necessary 14206
to acquire and pay for special projects of the court, including, 14207
but not limited to, the acquisition of additional facilities or 14208
the rehabilitation of existing facilities, the acquisition of 14209
equipment, the hiring and training of staff, community service 14210
programs, mediation or dispute resolution services, the employment 14211
of magistrates, the training and education of judges, acting 14212

judges, and magistrates, and other related services. Upon that 14213
determination, the court by rule may charge a fee, in addition to 14214
all other court costs, on the filing of each criminal cause, civil 14215
action or proceeding, or judgment by confession. 14216

If the court of common pleas offers a special program or 14217
service in cases of a specific type, the court by rule may assess 14218
an additional charge in a case of that type, over and above court 14219
costs, to cover the special program or service. The court shall 14220
adjust the special assessment periodically, but not retroactively, 14221
so that the amount assessed in those cases does not exceed the 14222
actual cost of providing the service or program. 14223

All moneys collected under division (E) of this section shall 14224
be paid to the county treasurer for deposit into either a general 14225
special projects fund or a fund established for a specific special 14226
project. Moneys from a fund of that nature shall be disbursed upon 14227
an order of the court in an amount no greater than the actual cost 14228
to the court of a project. If a specific fund is terminated 14229
because of the discontinuance of a program or service established 14230
under division (E) of this section, the court may order that 14231
moneys remaining in the fund be transferred to an account 14232
established under this division for a similar purpose. 14233

(2) As used in division (E) of this section: 14234

(a) "Criminal cause" means a charge alleging the violation of 14235
a statute or ordinance, or subsection of a statute or ordinance, 14236
that requires a separate finding of fact or a separate plea before 14237
disposition and of which the defendant may be found guilty, 14238
whether filed as part of a multiple charge on a single summons, 14239
citation, or complaint or as a separate charge on a single 14240
summons, citation, or complaint. "Criminal cause" does not include 14241
separate violations of the same statute or ordinance, or 14242
subsection of the same statute or ordinance, unless each charge is 14243

filed on a separate summons, citation, or complaint.	14244
(b) "Civil action or proceeding" means any civil litigation	14245
that must be determined by judgment entry.	14246
Sec. 2305.234. (A) As used in this section:	14247
(1) "Chiropractic claim," "medical claim," and "optometric	14248
claim" have the same meanings as in section 2305.113 of the	14249
Revised Code.	14250
(2) "Dental claim" has the same meaning as in section	14251
2305.113 of the Revised Code, except that it does not include any	14252
claim arising out of a dental operation or any derivative claim	14253
for relief that arises out of a dental operation.	14254
(3) "Governmental health care program" has the same meaning	14255
as in section 4731.65 of the Revised Code.	14256
(4) "Health care facility or location" means a hospital,	14257
clinic, ambulatory surgical facility, office of a health care	14258
professional or associated group of health care professionals,	14259
training institution for health care professionals, or any other	14260
place where medical, dental, or other health-related diagnosis,	14261
care, or treatment is provided to a person.	14262
(5) "Health care professional" means any of the following who	14263
provide medical, dental, or other health-related diagnosis, care,	14264
or treatment:	14265
(a) Physicians authorized under Chapter 4731. of the Revised	14266
Code to practice medicine and surgery or osteopathic medicine and	14267
surgery;	14268
(b) Registered nurses and licensed practical nurses licensed	14269
under Chapter 4723. of the Revised Code and individuals who hold a	14270
certificate of authority issued under that chapter that authorizes	14271
the practice of nursing as a certified registered nurse	14272

anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	14273 14274
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	14275 14276
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	14277 14278
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	14279 14280 14281
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	14282 14283
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	14284 14285
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	14286 14287
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	14288 14289
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	14290 14291
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	14292 14293 14294 14295
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	14296 14297
(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.	14298 14299
(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other	14300 14301

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.

(7) "Indigent and uninsured person" means a person who meets
all of the following requirements:

(a) The person's income is not greater than two hundred 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.

(b) The person is not eligible to receive medical assistance
under Chapter 5111., ~~disability medical assistance under Chapter~~
~~5115.~~ of the Revised Code, or assistance under any other
governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder,
insured, contract holder, subscriber, enrollee, member,
beneficiary, or other covered individual under a health insurance
or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder,
insured, contract holder, subscriber, enrollee, member,
beneficiary, or other covered individual under a health insurance
or health care policy, contract, or plan, but the insurer, policy,
contract, or plan denies coverage or is the subject of insolvency
or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an
entity that is not operated for profit and refers patients to, or
arranges for the provision of, health-related diagnosis, care, or

treatment by a health care professional or health care worker. 14332

(9) "Operation" means any procedure that involves cutting or 14333
otherwise infiltrating human tissue by mechanical means, including 14334
surgery, laser surgery, ionizing radiation, therapeutic 14335
ultrasound, or the removal of intraocular foreign bodies. 14336

"Operation" does not include the administration of medication by 14337
injection, unless the injection is administered in conjunction 14338
with a procedure infiltrating human tissue by mechanical means 14339
other than the administration of medicine by injection. 14340

"Operation" does not include routine dental restorative 14341
procedures, the scaling of teeth, or extractions of teeth that are 14342
not impacted. 14343

(10) "Tort action" means a civil action for damages for 14344
injury, death, or loss to person or property other than a civil 14345
action for damages for a breach of contract or another agreement 14346
between persons or government entities. 14347

(11) "Volunteer" means an individual who provides any 14348
medical, dental, or other health-care related diagnosis, care, or 14349
treatment without the expectation of receiving and without receipt 14350
of any compensation or other form of remuneration from an indigent 14351
and uninsured person, another person on behalf of an indigent and 14352
uninsured person, any health care facility or location, any 14353
nonprofit health care referral organization, or any other person 14354
or government entity. 14355

(12) "Community control sanction" has the same meaning as in 14356
section 2929.01 of the Revised Code. 14357

(13) "Deep sedation" means a drug-induced depression of 14358
consciousness during which a patient cannot be easily aroused but 14359
responds purposefully following repeated or painful stimulation, a 14360
patient's ability to independently maintain ventilatory function 14361
may be impaired, a patient may require assistance in maintaining a 14362

patent airway and spontaneous ventilation may be inadequate, and 14363
cardiovascular function is usually maintained. 14364

(14) "General anesthesia" means a drug-induced loss of 14365
consciousness during which a patient is not arousable, even by 14366
painful stimulation, the ability to independently maintain 14367
ventilatory function is often impaired, a patient often requires 14368
assistance in maintaining a patent airway, positive pressure 14369
ventilation may be required because of depressed spontaneous 14370
ventilation or drug-induced depression of neuromuscular function, 14371
and cardiovascular function may be impaired. 14372

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 14373
health care professional who is a volunteer and complies with 14374
division (B)(2) of this section is not liable in damages to any 14375
person or government entity in a tort or other civil action, 14376
including an action on a medical, dental, chiropractic, 14377
optometric, or other health-related claim, for injury, death, or 14378
loss to person or property that allegedly arises from an action or 14379
omission of the volunteer in the provision to an indigent and 14380
uninsured person of medical, dental, or other health-related 14381
diagnosis, care, or treatment, including the provision of samples 14382
of medicine and other medical products, unless the action or 14383
omission constitutes willful or wanton misconduct. 14384

(2) To qualify for the immunity described in division (B)(1) 14385
of this section, a health care professional shall do all of the 14386
following prior to providing diagnosis, care, or treatment: 14387

(a) Determine, in good faith, that the indigent and uninsured 14388
person is mentally capable of giving informed consent to the 14389
provision of the diagnosis, care, or treatment and is not subject 14390
to duress or under undue influence; 14391

(b) Inform the person of the provisions of this section, 14392
including notifying the person that, by giving informed consent to 14393

the provision of the diagnosis, care, or treatment, the person 14394
cannot hold the health care professional liable for damages in a 14395
tort or other civil action, including an action on a medical, 14396
dental, chiropractic, optometric, or other health-related claim, 14397
unless the action or omission of the health care professional 14398
constitutes willful or wanton misconduct; 14399

(c) Obtain the informed consent of the person and a written 14400
waiver, signed by the person or by another individual on behalf of 14401
and in the presence of the person, that states that the person is 14402
mentally competent to give informed consent and, without being 14403
subject to duress or under undue influence, gives informed consent 14404
to the provision of the diagnosis, care, or treatment subject to 14405
the provisions of this section. A written waiver under division 14406
(B)(2)(c) of this section shall state clearly and in conspicuous 14407
type that the person or other individual who signs the waiver is 14408
signing it with full knowledge that, by giving informed consent to 14409
the provision of the diagnosis, care, or treatment, the person 14410
cannot bring a tort or other civil action, including an action on 14411
a medical, dental, chiropractic, optometric, or other 14412
health-related claim, against the health care professional unless 14413
the action or omission of the health care professional constitutes 14414
willful or wanton misconduct. 14415

(3) A physician or podiatrist who is not covered by medical 14416
malpractice insurance, but complies with division (B)(2) of this 14417
section, is not required to comply with division (A) of section 14418
4731.143 of the Revised Code. 14419

(C) Subject to divisions (F) and (G)(3) of this section, 14420
health care workers who are volunteers are not liable in damages 14421
to any person or government entity in a tort or other civil 14422
action, including an action upon a medical, dental, chiropractic, 14423
optometric, or other health-related claim, for injury, death, or 14424
loss to person or property that allegedly arises from an action or 14425

omission of the health care worker in the provision to an indigent 14426
and uninsured person of medical, dental, or other health-related 14427
diagnosis, care, or treatment, unless the action or omission 14428
constitutes willful or wanton misconduct. 14429

(D) Subject to divisions (F) and (G)(3) of this section, a 14430
nonprofit health care referral organization is not liable in 14431
damages to any person or government entity in a tort or other 14432
civil action, including an action on a medical, dental, 14433
chiropractic, optometric, or other health-related claim, for 14434
injury, death, or loss to person or property that allegedly arises 14435
from an action or omission of the nonprofit health care referral 14436
organization in referring indigent and uninsured persons to, or 14437
arranging for the provision of, medical, dental, or other 14438
health-related diagnosis, care, or treatment by a health care 14439
professional described in division (B)(1) of this section or a 14440
health care worker described in division (C) of this section, 14441
unless the action or omission constitutes willful or wanton 14442
misconduct. 14443

(E) Subject to divisions (F) and (G)(3) of this section and 14444
to the extent that the registration requirements of section 14445
3701.071 of the Revised Code apply, a health care facility or 14446
location associated with a health care professional described in 14447
division (B)(1) of this section, a health care worker described in 14448
division (C) of this section, or a nonprofit health care referral 14449
organization described in division (D) of this section is not 14450
liable in damages to any person or government entity in a tort or 14451
other civil action, including an action on a medical, dental, 14452
chiropractic, optometric, or other health-related claim, for 14453
injury, death, or loss to person or property that allegedly arises 14454
from an action or omission of the health care professional or 14455
worker or nonprofit health care referral organization relative to 14456
the medical, dental, or other health-related diagnosis, care, or 14457

treatment provided to an indigent and uninsured person on behalf 14458
of or at the health care facility or location, unless the action 14459
or omission constitutes willful or wanton misconduct. 14460

(F)(1) Except as provided in division (F)(2) of this section, 14461
the immunities provided by divisions (B), (C), (D), and (E) of 14462
this section are not available to a health care professional, 14463
health care worker, nonprofit health care referral organization, 14464
or health care facility or location if, at the time of an alleged 14465
injury, death, or loss to person or property, the health care 14466
professionals or health care workers involved are providing one of 14467
the following: 14468

(a) Any medical, dental, or other health-related diagnosis, 14469
care, or treatment pursuant to a community service work order 14470
entered by a court under division (B) of section 2951.02 of the 14471
Revised Code or imposed by a court as a community control 14472
sanction; 14473

(b) Performance of an operation to which any one of the 14474
following applies: 14475

(i) The operation requires the administration of deep 14476
sedation or general anesthesia. 14477

(ii) The operation is a procedure that is not typically 14478
performed in an office. 14479

(iii) The individual involved is a health care professional, 14480
and the operation is beyond the scope of practice or the 14481
education, training, and competence, as applicable, of the health 14482
care professional. 14483

(c) Delivery of a baby or any other purposeful termination of 14484
a human pregnancy. 14485

(2) Division (F)(1) of this section does not apply when a 14486
health care professional or health care worker provides medical, 14487

dental, or other health-related diagnosis, care, or treatment that 14488
is necessary to preserve the life of a person in a medical 14489
emergency. 14490

(G)(1) This section does not create a new cause of action or 14491
substantive legal right against a health care professional, health 14492
care worker, nonprofit health care referral organization, or 14493
health care facility or location. 14494

(2) This section does not affect any immunities from civil 14495
liability or defenses established by another section of the 14496
Revised Code or available at common law to which a health care 14497
professional, health care worker, nonprofit health care referral 14498
organization, or health care facility or location may be entitled 14499
in connection with the provision of emergency or other medical, 14500
dental, or other health-related diagnosis, care, or treatment. 14501

(3) This section does not grant an immunity from tort or 14502
other civil liability to a health care professional, health care 14503
worker, nonprofit health care referral organization, or health 14504
care facility or location for actions that are outside the scope 14505
of authority of health care professionals or health care workers. 14506

(4) This section does not affect any legal responsibility of 14507
a health care professional, health care worker, or nonprofit 14508
health care referral organization to comply with any applicable 14509
law of this state or rule of an agency of this state. 14510

(5) This section does not affect any legal responsibility of 14511
a health care facility or location to comply with any applicable 14512
law of this state, rule of an agency of this state, or local code, 14513
ordinance, or regulation that pertains to or regulates building, 14514
housing, air pollution, water pollution, sanitation, health, fire, 14515
zoning, or safety. 14516

Sec. 2329.66. (A) Every person who is domiciled in this state 14517

may hold property exempt from execution, garnishment, attachment, 14518
or sale to satisfy a judgment or order, as follows: 14519

(1)(a) In the case of a judgment or order regarding money 14520
owed for health care services rendered or health care supplies 14521
provided to the person or a dependent of the person, one parcel or 14522
item of real or personal property that the person or a dependent 14523
of the person uses as a residence. Division (A)(1)(a) of this 14524
section does not preclude, affect, or invalidate the creation 14525
under this chapter of a judgment lien upon the exempted property 14526
but only delays the enforcement of the lien until the property is 14527
sold or otherwise transferred by the owner or in accordance with 14528
other applicable laws to a person or entity other than the 14529
surviving spouse or surviving minor children of the judgment 14530
debtor. Every person who is domiciled in this state may hold 14531
exempt from a judgment lien created pursuant to division (A)(1)(a) 14532
of this section the person's interest, not to exceed five thousand 14533
dollars, in the exempted property. 14534

(b) In the case of all other judgments and orders, the 14535
person's interest, not to exceed five thousand dollars, in one 14536
parcel or item of real or personal property that the person or a 14537
dependent of the person uses as a residence. 14538

(2) The person's interest, not to exceed one thousand 14539
dollars, in one motor vehicle; 14540

(3) The person's interest, not to exceed two hundred dollars 14541
in any particular item, in wearing apparel, beds, and bedding, and 14542
the person's interest, not to exceed three hundred dollars in each 14543
item, in one cooking unit and one refrigerator or other food 14544
preservation unit; 14545

(4)(a) The person's interest, not to exceed four hundred 14546
dollars, in cash on hand, money due and payable, money to become 14547
due within ninety days, tax refunds, and money on deposit with a 14548

bank, savings and loan association, credit union, public utility, 14549
landlord, or other person. Division (A)(4)(a) of this section 14550
applies only in bankruptcy proceedings. This exemption may include 14551
the portion of personal earnings that is not exempt under division 14552
(A)(13) of this section. 14553

(b) Subject to division (A)(4)(d) of this section, the 14554
person's interest, not to exceed two hundred dollars in any 14555
particular item, in household furnishings, household goods, 14556
appliances, books, animals, crops, musical instruments, firearms, 14557
and hunting and fishing equipment, that are held primarily for the 14558
personal, family, or household use of the person; 14559

(c) Subject to division (A)(4)(d) of this section, the 14560
person's interest in one or more items of jewelry, not to exceed 14561
four hundred dollars in one item of jewelry and not to exceed two 14562
hundred dollars in every other item of jewelry; 14563

(d) Divisions (A)(4)(b) and (c) of this section do not 14564
include items of personal property listed in division (A)(3) of 14565
this section. 14566

If the person does not claim an exemption under division 14567
(A)(1) of this section, the total exemption claimed under division 14568
(A)(4)(b) of this section shall be added to the total exemption 14569
claimed under division (A)(4)(c) of this section, and the total 14570
shall not exceed two thousand dollars. If the person claims an 14571
exemption under division (A)(1) of this section, the total 14572
exemption claimed under division (A)(4)(b) of this section shall 14573
be added to the total exemption claimed under division (A)(4)(c) 14574
of this section, and the total shall not exceed one thousand five 14575
hundred dollars. 14576

(5) The person's interest, not to exceed an aggregate of 14577
seven hundred fifty dollars, in all implements, professional 14578
books, or tools of the person's profession, trade, or business, 14579

including agriculture;	14580
(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;	14581 14582 14583
(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	14584 14585 14586
(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;	14587 14588 14589
(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;	14590 14591 14592 14593
(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	14594 14595 14596 14597
(7) The person's professionally prescribed or medically necessary health aids;	14598 14599
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	14600 14601 14602
(9) The person's interest in the following:	14603
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	14604 14605
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	14606 14607
(c) Unemployment compensation benefits, as exempted by	14608

section 4141.32 of the Revised Code; 14609

(d) Cash assistance payments under the Ohio works first 14610
program, as exempted by section 5107.75 of the Revised Code; 14611

(e) Benefits and services under the prevention, retention, 14612
and contingency program, as exempted by section 5108.08 of the 14613
Revised Code; 14614

(f) Disability financial assistance payments, as exempted by 14615
section 5115.06 of the Revised Code. 14616

(10)(a) Except in cases in which the person was convicted of 14617
or pleaded guilty to a violation of section 2921.41 of the Revised 14618
Code and in which an order for the withholding of restitution from 14619
payments was issued under division (C)(2)(b) of that section or in 14620
cases in which an order for withholding was issued under section 14621
2907.15 of the Revised Code, and only to the extent provided in 14622
the order, and except as provided in sections 3105.171, 3105.63, 14623
3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised 14624
Code, the person's right to a pension, benefit, annuity, 14625
retirement allowance, or accumulated contributions, the person's 14626
right to a participant account in any deferred compensation 14627
program offered by the Ohio public employees deferred compensation 14628
board, a government unit, or a municipal corporation, or the 14629
person's other accrued or accruing rights, as exempted by section 14630
145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of 14631
the Revised Code, and the person's right to benefits from the Ohio 14632
public safety officers death benefit fund; 14633

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 14634
3121.03, and 3123.06 of the Revised Code, the person's right to 14635
receive a payment under any pension, annuity, or similar plan or 14636
contract, not including a payment from a stock bonus or 14637
profit-sharing plan or a payment included in division (A)(6)(b) or 14638
(10)(a) of this section, on account of illness, disability, death, 14639

age, or length of service, to the extent reasonably necessary for 14640
the support of the person and any of the person's dependents, 14641
except if all the following apply: 14642

(i) The plan or contract was established by or under the 14643
auspices of an insider that employed the person at the time the 14644
person's rights under the plan or contract arose. 14645

(ii) The payment is on account of age or length of service. 14646

(iii) The plan or contract is not qualified under the 14647
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 14648
amended. 14649

(c) Except for any portion of the assets that were deposited 14650
for the purpose of evading the payment of any debt and except as 14651
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 14652
3123.06 of the Revised Code, the person's right in the assets held 14653
in, or to receive any payment under, any individual retirement 14654
account, individual retirement annuity, "Roth IRA," or education 14655
individual retirement account that provides benefits by reason of 14656
illness, disability, death, or age, to the extent that the assets, 14657
payments, or benefits described in division (A)(10)(c) of this 14658
section are attributable to any of the following: 14659

(i) Contributions of the person that were less than or equal 14660
to the applicable limits on deductible contributions to an 14661
individual retirement account or individual retirement annuity in 14662
the year that the contributions were made, whether or not the 14663
person was eligible to deduct the contributions on the person's 14664
federal tax return for the year in which the contributions were 14665
made; 14666

(ii) Contributions of the person that were less than or equal 14667
to the applicable limits on contributions to a Roth IRA or 14668
education individual retirement account in the year that the 14669
contributions were made; 14670

(iii) Contributions of the person that are within the applicable limits on rollover contributions under subsections 219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(d) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any Keogh or "H.R. 10" plan that provides benefits by reason of illness, disability, death, or age, to the extent reasonably necessary for the support of the person and any of the person's dependents.

(11) The person's right to receive spousal support, child support, an allowance, or other maintenance to the extent reasonably necessary for the support of the person and any of the person's dependents;

(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:

(a) An award of reparations under sections 2743.51 to 2743.72 of the Revised Code, to the extent exempted by division (D) of section 2743.66 of the Revised Code;

(b) A payment on account of the wrongful death of an individual of whom the person was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the person and any of the person's dependents;

(c) Except in cases in which the person who receives the payment is an inmate, as defined in section 2969.21 of the Revised Code, and in which the payment resulted from a civil action or appeal against a government entity or employee, as defined in section 2969.21 of the Revised Code, a payment, not to exceed five

thousand dollars, on account of personal bodily injury, not 14702
including pain and suffering or compensation for actual pecuniary 14703
loss, of the person or an individual for whom the person is a 14704
dependent; 14705

(d) A payment in compensation for loss of future earnings of 14706
the person or an individual of whom the person is or was a 14707
dependent, to the extent reasonably necessary for the support of 14708
the debtor and any of the debtor's dependents. 14709

(13) Except as provided in sections 3119.80, 3119.81, 14710
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 14711
earnings of the person owed to the person for services in an 14712
amount equal to the greater of the following amounts: 14713

(a) If paid weekly, thirty times the current federal minimum 14714
hourly wage; if paid biweekly, sixty times the current federal 14715
minimum hourly wage; if paid semimonthly, sixty-five times the 14716
current federal minimum hourly wage; or if paid monthly, one 14717
hundred thirty times the current federal minimum hourly wage that 14718
is in effect at the time the earnings are payable, as prescribed 14719
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 14720
U.S.C. 206(a)(1), as amended; 14721

(b) Seventy-five per cent of the disposable earnings owed to 14722
the person. 14723

(14) The person's right in specific partnership property, as 14724
exempted by division (B)(3) of section 1775.24 of the Revised 14725
Code; 14726

(15) A seal and official register of a notary public, as 14727
exempted by section 147.04 of the Revised Code; 14728

(16) The person's interest in a tuition ~~credit~~ unit or a 14729
payment under section 3334.09 of the Revised Code pursuant to a 14730
tuition ~~credit~~ payment contract, as exempted by section 3334.15 of 14731

the Revised Code;	14732
(17) Any other property that is specifically exempted from	14733
execution, attachment, garnishment, or sale by federal statutes	14734
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11	14735
U.S.C.A. 101, as amended;	14736
(18) The person's interest, not to exceed four hundred	14737
dollars, in any property, except that division (A)(18) of this	14738
section applies only in bankruptcy proceedings.	14739
(B) As used in this section:	14740
(1) "Disposable earnings" means net earnings after the	14741
garnishee has made deductions required by law, excluding the	14742
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02,	14743
3121.03, or 3123.06 of the Revised Code.	14744
(2) "Insider" means:	14745
(a) If the person who claims an exemption is an individual, a	14746
relative of the individual, a relative of a general partner of the	14747
individual, a partnership in which the individual is a general	14748
partner, a general partner of the individual, or a corporation of	14749
which the individual is a director, officer, or in control;	14750
(b) If the person who claims an exemption is a corporation, a	14751
director or officer of the corporation; a person in control of the	14752
corporation; a partnership in which the corporation is a general	14753
partner; a general partner of the corporation; or a relative of a	14754
general partner, director, officer, or person in control of the	14755
corporation;	14756
(c) If the person who claims an exemption is a partnership, a	14757
general partner in the partnership; a general partner of the	14758
partnership; a person in control of the partnership; a partnership	14759
in which the partnership is a general partner; or a relative in, a	14760
general partner of, or a person in control of the partnership;	14761

(d) An entity or person to which or whom any of the following applies:	14762 14763
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	14764 14765 14766 14767 14768 14769 14770
(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.	14771 14772 14773 14774 14775
(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.	14776 14777 14778 14779
(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.	14780 14781 14782
(e) An insider, as otherwise defined in this section, of a person or entity to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;	14783 14784 14785 14786
(f) A managing agent of the person who claims an exemption.	14787
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	14788 14789
(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.	14790 14791

(C) For purposes of this section, "interest" shall be 14792
determined as follows: 14793

(1) In bankruptcy proceedings, as of the date a petition is 14794
filed with the bankruptcy court commencing a case under Title 11 14795
of the United States Code; 14796

(2) In all cases other than bankruptcy proceedings, as of the 14797
date of an appraisal, if necessary under section 2329.68 of the 14798
Revised Code, or the issuance of a writ of execution. 14799

An interest, as determined under division (C)(1) or (2) of 14800
this section, shall not include the amount of any lien otherwise 14801
valid pursuant to section 2329.661 of the Revised Code. 14802

Sec. 2744.05. Notwithstanding any other provisions of the 14803
Revised Code or rules of a court to the contrary, in an action 14804
against a political subdivision to recover damages for injury, 14805
death, or loss to person or property caused by an act or omission 14806
in connection with a governmental or proprietary function: 14807

(A) Punitive or exemplary damages shall not be awarded. 14808

(B)(1) If a claimant receives or is entitled to receive 14809
benefits for injuries or loss allegedly incurred from a policy or 14810
policies of insurance or any other source, the benefits shall be 14811
disclosed to the court, and the amount of the benefits shall be 14812
deducted from any award against a political subdivision recovered 14813
by that claimant. No insurer or other person is entitled to bring 14814
an action under a subrogation provision in an insurance or other 14815
contract against a political subdivision with respect to those 14816
benefits. 14817

The amount of the benefits shall be deducted from an award 14818
against a political subdivision under division (B)(1) of this 14819
section regardless of whether the claimant may be under an 14820
obligation to pay back the benefits upon recovery, in whole or in 14821

part, for the claim. A claimant whose benefits have been deducted 14822
from an award under division (B)(1) of this section is not 14823
considered fully compensated and shall not be required to 14824
reimburse a subrogated claim for benefits deducted from an award 14825
pursuant to division (B)(1) of this section. 14826

(2) Nothing in division (B)(1) of this section shall be 14827
construed to do either of the following: 14828

(a) Limit the rights of a beneficiary under a life insurance 14829
policy or the rights of sureties under fidelity or surety bonds; 14830

(b) Prohibit the department of job and family services from 14831
recovering from the political subdivision, pursuant to section 14832
5101.58 of the Revised Code, the cost of medical assistance 14833
benefits provided under Chapter 5107.7 or 5111.7, ~~or 5115.~~ of the 14834
Revised Code. 14835

(C)(1) There shall not be any limitation on compensatory 14836
damages that represent the actual loss of the person who is 14837
awarded the damages. However, except in wrongful death actions 14838
brought pursuant to Chapter 2125. of the Revised Code, damages 14839
that arise from the same cause of action, transaction or 14840
occurrence, or series of transactions or occurrences and that do 14841
not represent the actual loss of the person who is awarded the 14842
damages shall not exceed two hundred fifty thousand dollars in 14843
favor of any one person. The limitation on damages that do not 14844
represent the actual loss of the person who is awarded the damages 14845
provided in this division does not apply to court costs that are 14846
awarded to a plaintiff, or to interest on a judgment rendered in 14847
favor of a plaintiff, in an action against a political 14848
subdivision. 14849

(2) As used in this division, "the actual loss of the person 14850
who is awarded the damages" includes all of the following: 14851

(a) All wages, salaries, or other compensation lost by the 14852

person injured as a result of the injury, including wages, 14853
salaries, or other compensation lost as of the date of a judgment 14854
and future expected lost earnings of the person injured; 14855

(b) All expenditures of the person injured or another person 14856
on behalf of the person injured for medical care or treatment, for 14857
rehabilitation services, or for other care, treatment, services, 14858
products, or accommodations that were necessary because of the 14859
injury; 14860

(c) All expenditures to be incurred in the future, as 14861
determined by the court, by the person injured or another person 14862
on behalf of the person injured for medical care or treatment, for 14863
rehabilitation services, or for other care, treatment, services, 14864
products, or accommodations that will be necessary because of the 14865
injury; 14866

(d) All expenditures of a person whose property was injured 14867
or destroyed or of another person on behalf of the person whose 14868
property was injured or destroyed in order to repair or replace 14869
the property that was injured or destroyed; 14870

(e) All expenditures of the person injured or of the person 14871
whose property was injured or destroyed or of another person on 14872
behalf of the person injured or of the person whose property was 14873
injured or destroyed in relation to the actual preparation or 14874
presentation of the claim involved; 14875

(f) Any other expenditures of the person injured or of the 14876
person whose property was injured or destroyed or of another 14877
person on behalf of the person injured or of the person whose 14878
property was injured or destroyed that the court determines 14879
represent an actual loss experienced because of the personal or 14880
property injury or property loss. 14881

"The actual loss of the person who is awarded the damages" 14882
does not include any fees paid or owed to an attorney for any 14883

services rendered in relation to a personal or property injury or 14884
property loss, and does not include any damages awarded for pain 14885
and suffering, for the loss of society, consortium, companionship, 14886
care, assistance, attention, protection, advice, guidance, 14887
counsel, instruction, training, or education of the person 14888
injured, for mental anguish, or for any other intangible loss. 14889

Sec. 2901.07. (A) As used in this section: 14890

(1) "DNA analysis" and "DNA specimen" have the same meanings 14891
as in section 109.573 of the Revised Code. 14892

(2) "Jail" and "community-based correctional facility" have 14893
the same meanings as in section 2929.01 of the Revised Code. 14894

(3) "Post-release control" has the same meaning as in section 14895
2967.01 of the Revised Code. 14896

(B)(1) A person who is convicted of or pleads guilty to a 14897
felony offense listed in division (D) of this section and who is 14898
sentenced to a prison term or to a community residential sanction 14899
in a jail or community-based correctional facility pursuant to 14900
section 2929.16 of the Revised Code, and a person who is convicted 14901
of or pleads guilty to a misdemeanor offense listed in division 14902
(D) of this section and who is sentenced to a term of imprisonment 14903
shall submit to a DNA specimen collection procedure administered 14904
by the director of rehabilitation and correction or the chief 14905
administrative officer of the jail or other detention facility in 14906
which the person is serving the term of imprisonment. If the 14907
person serves the prison term in a state correctional institution, 14908
the director of rehabilitation and correction shall cause the DNA 14909
specimen to be collected from the person during the intake process 14910
at the reception facility designated by the director. If the 14911
person serves the community residential sanction or term of 14912
imprisonment in a jail, a community-based correctional facility, 14913

or another county, multicounty, municipal, municipal-county, or
multicounty-municipal detention facility, the chief administrative
officer of the jail, community-based correctional facility, or
detention facility shall cause the DNA specimen to be collected
from the person during the intake process at the jail,
community-based correctional facility, or detention facility. In
accordance with division (C) of this section, the director or the
chief administrative officer shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected in accordance with division (C) of this section.

(2) If a person is convicted of or pleads guilty to an
offense listed in division (D) of this section, is serving a
prison term, community residential sanction, or term of
imprisonment for that offense, and does not provide a DNA specimen
pursuant to division (B)(1) of this section, prior to the person's
release from the prison term, community residential sanction, or
imprisonment, the person shall submit to, and the director of
rehabilitation and correction or the chief administrative officer
of the jail, community-based correctional facility, or detention
facility in which the person is serving the prison term, community
residential sanction, or term of imprisonment shall administer, a
DNA specimen collection procedure at the state correctional
institution, jail, community-based correctional facility, or
detention facility in which the person is serving the prison term,
community residential sanction, or term of imprisonment. In
accordance with division (C) of this section, the director or the
chief administrative officer shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be

collected in accordance with division (C) of this section. 14946

(3) If a person sentenced to a term of imprisonment or 14947
serving a prison term or community residential sanction for 14948
committing an offense listed in division (D) of this section is on 14949
probation, is released on parole, under transitional control, or 14950
on another type of release, or is on post-release control, if the 14951
person is under the supervision of a probation department or the 14952
adult parole authority, if the person is sent to jail or is 14953
returned to a jail, community-based correctional facility, or 14954
state correctional institution for a violation of the terms and 14955
conditions of the probation, parole, transitional control, other 14956
release, or post-release control, if the person was or will be 14957
serving a term of imprisonment, prison term, or community 14958
residential sanction for committing an offense listed in division 14959
(D) of this section, and if the person did not provide a DNA 14960
specimen pursuant to division (B)(1) or (2) of this section, the 14961
person shall submit to, and the director of rehabilitation and 14962
correction or the chief administrative officer of the jail or 14963
community-based correctional facility shall administer, a DNA 14964
specimen collection procedure at the jail, community-based 14965
correctional facility, or state correctional institution in which 14966
the person is serving the term of imprisonment, prison term, or 14967
community residential sanction. In accordance with division (C) of 14968
this section, the director or the chief administrative officer 14969
shall cause the DNA specimen to be forwarded to the bureau of 14970
criminal identification and investigation no later than fifteen 14971
days after the date of the collection of the DNA specimen. The DNA 14972
specimen shall be collected from the person in accordance with 14973
division (C) of this section. 14974

(C) If the DNA specimen is collected by withdrawing blood 14975
from the person or a similarly invasive procedure, a physician, 14976
registered nurse, licensed practical nurse, duly licensed clinical 14977

laboratory technician, or other qualified medical practitioner 14978
shall collect in a medically approved manner the DNA specimen 14979
required to be collected pursuant to division (B) of this section. 14980
If the DNA specimen is collected by swabbing for buccal cells or a 14981
similarly noninvasive procedure, this section does not require 14982
that the DNA specimen be collected by a qualified medical 14983
practitioner of that nature. No later than fifteen days after the 14984
date of the collection of the DNA specimen, the director of 14985
rehabilitation and correction or the chief administrative officer 14986
of the jail, community-based correctional facility, or other 14987
county, multicounty, municipal, municipal-county, or 14988
multicounty-municipal detention facility, in which the person is 14989
serving the prison term, community residential sanction, or term 14990
of imprisonment shall cause the DNA specimen to be forwarded to 14991
the bureau of criminal identification and investigation in 14992
accordance with procedures established by the superintendent of 14993
the bureau under division (H) of section 109.573 of the Revised 14994
Code. The bureau shall provide the specimen vials, mailing tubes, 14995
labels, postage, and instructions needed for the collection and 14996
forwarding of the DNA specimen to the bureau. 14997

(D) The director of rehabilitation and correction and the 14998
chief administrative officer of the jail, community-based 14999
correctional facility, or other county, multicounty, municipal, 15000
municipal-county, or multicounty-municipal detention facility 15001
shall cause a DNA specimen to be collected in accordance with 15002
divisions (B) and (C) of this section from a person in its custody 15003
who is convicted of or pleads guilty to any of the following 15004
offenses: 15005

(1) A violation of section 2903.01, 2903.02, 2903.11, 15006
2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 15007
2911.11, or 2911.12 of the Revised Code; 15008

(2) A violation of section 2907.12 of the Revised Code as it 15009

existed prior to September 3, 1996; 15010

(3) An attempt to commit a violation of section 2903.01, 15011
2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code 15012
or to commit a violation of section 2907.12 of the Revised Code as 15013
it existed prior to September 3, 1996; 15014

(4) A violation of any law that arose out of the same facts 15015
and circumstances and same act as did a charge against the person 15016
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 15017
2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that 15018
previously was dismissed or amended or as did a charge against the 15019
person of a violation of section 2907.12 of the Revised Code as it 15020
existed prior to September 3, 1996, that previously was dismissed 15021
or amended; 15022

(5) A violation of section 2905.02 or 2919.23 of the Revised 15023
Code that would have been a violation of section 2905.04 of the 15024
Revised Code as it existed prior to July 1, 1996, had it been 15025
committed prior to that date; 15026

(6) A sexually oriented offense or a child-victim oriented 15027
offense, both as defined in section 2950.01 of the Revised Code, 15028
if, in relation to that offense, the offender has been adjudicated 15029
a sexual predator or a child-victim predator, both as defined in 15030
section 2950.01 of the Revised Code; 15031

(7) A felony violation of any law that arose out of the same 15032
facts and circumstances and same act as did a charge against the 15033
person of a violation of section 2903.11, 2911.01, 2911.02, or 15034
2911.12 of the Revised Code that previously was dismissed or 15035
amended; 15036

(8) A conspiracy to commit a violation of section 2903.01, 15037
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 15038
Revised Code; 15039

(9) Complicity in committing a violation of section 2903.01, 15040
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 15041
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 15042
violation of section 2907.12 of the Revised Code as it existed 15043
prior to September 3, 1996. 15044

(E) The director of rehabilitation and correction or a chief 15045
administrative officer of a jail, community-based correctional 15046
facility, or other detention facility described in division (B) of 15047
this section in relation to the following offenses is not required 15048
to comply with this section until the superintendent of the bureau 15049
of criminal identification and investigation gives agencies in the 15050
criminal justice system, as defined in section ~~181.51~~ 5502.61 of 15051
the Revised Code, in the state official notification that the 15052
state DNA laboratory is prepared to accept DNA specimens of that 15053
nature: 15054

(1) A violation of section 2903.11, 2911.01, 2911.02, or 15055
2911.12 of the Revised Code; 15056

(2) An attempt to commit a violation of section 2903.01 or 15057
2903.02 of the Revised Code; 15058

(3) A felony violation of any law that arose out of the same 15059
facts and circumstances and same act as did a charge against the 15060
person of a violation of section 2903.11, 2911.01, 2911.02, or 15061
2911.12 of the Revised Code that previously was dismissed or 15062
amended; 15063

(4) A conspiracy to commit a violation of section 2903.01, 15064
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 15065
Revised Code; 15066

(5) Complicity in committing a violation of section 2903.01, 15067
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 15068
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 15069
violation of section 2907.12 of the Revised Code as it existed 15070

prior to September 3, 1996. 15071

Sec. 2913.40. (A) As used in this section: 15072

(1) "Statement or representation" means any oral, written, 15073
electronic, electronic impulse, or magnetic communication that is 15074
used to identify an item of goods or a service for which 15075
reimbursement may be made under the medical assistance program or 15076
that states income and expense and is or may be used to determine 15077
a rate of reimbursement under the medical assistance program. 15078

(2) "Medical assistance program" means the program 15079
established by the department of job and family services to 15080
provide medical assistance under section 5111.01 of the Revised 15081
Code and the medicaid program of Title XIX of the "Social Security 15082
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 15083

(3) "Provider" means any person who has signed a provider 15084
agreement with the department of job and family services to 15085
provide goods or services pursuant to the medical assistance 15086
program or any person who has signed an agreement with a party to 15087
such a provider agreement under which the person agrees to provide 15088
goods or services that are reimbursable under the medical 15089
assistance program. 15090

(4) "Provider agreement" means an oral or written agreement 15091
between the department of job and family services and a person in 15092
which the person agrees to provide goods or services under the 15093
medical assistance program. 15094

(5) "Recipient" means any individual who receives goods or 15095
services from a provider under the medical assistance program. 15096

(6) "Records" means any medical, professional, financial, or 15097
business records relating to the treatment or care of any 15098
recipient, to goods or services provided to any recipient, or to 15099
rates paid for goods or services provided to any recipient and any 15100

records that are required by the rules of the director of job and family services to be kept for the medical assistance program. 15101
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(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program. 15103
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(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following: 15106
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(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by ~~rules adopted under~~ section 5111.0112 of the Revised Code or ~~by any~~ rules adopted pursuant to ~~that~~ section 5111.01, 5111.011, or 5111.02 of the Revised Code. 15109
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(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.0112 of the Revised Code or rules adopted under section 5111.0112 5111.01, 5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted pursuant to that section~~, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program. 15119
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(D) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those 15128
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goods or services, is received under the medical assistance 15132
program: 15133

(1) Knowingly alter, falsify, destroy, conceal, or remove any 15134
records that are necessary to fully disclose the nature of all 15135
goods or services for which the claim was submitted, or for which 15136
reimbursement was received, by the person; 15137

(2) Knowingly alter, falsify, destroy, conceal, or remove any 15138
records that are necessary to disclose fully all income and 15139
expenditures upon which rates of reimbursements were based for the 15140
person. 15141

(E) Whoever violates this section is guilty of medicaid 15142
fraud. Except as otherwise provided in this division, medicaid 15143
fraud is a misdemeanor of the first degree. If the value of 15144
property, services, or funds obtained in violation of this section 15145
is five hundred dollars or more and is less than five thousand 15146
dollars, medicaid fraud is a felony of the fifth degree. If the 15147
value of property, services, or funds obtained in violation of 15148
this section is five thousand dollars or more and is less than one 15149
hundred thousand dollars, medicaid fraud is a felony of the fourth 15150
degree. If the value of the property, services, or funds obtained 15151
in violation of this section is one hundred thousand dollars or 15152
more, medicaid fraud is a felony of the third degree. 15153

(F) Upon application of the governmental agency, office, or 15154
other entity that conducted the investigation and prosecution in a 15155
case under this section, the court shall order any person who is 15156
convicted of a violation of this section for receiving any 15157
reimbursement for furnishing goods or services under the medical 15158
assistance program to which the person is not entitled to pay to 15159
the applicant its cost of investigating and prosecuting the case. 15160
The costs of investigation and prosecution that a defendant is 15161
ordered to pay pursuant to this division shall be in addition to 15162

any other penalties for the receipt of that reimbursement that are 15163
provided in this section, section 5111.03 of the Revised Code, or 15164
any other provision of law. 15165

(G) The provisions of this section are not intended to be 15166
exclusive remedies and do not preclude the use of any other 15167
criminal or civil remedy for any act that is in violation of this 15168
section. 15169

Sec. 2919.22. (A) No person, who is the parent, guardian, 15170
custodian, person having custody or control, or person in loco 15171
parentis of a child under eighteen years of age or a mentally or 15172
physically handicapped child under twenty-one years of age, shall 15173
create a substantial risk to the health or safety of the child, by 15174
violating a duty of care, protection, or support. It is not a 15175
violation of a duty of care, protection, or support under this 15176
division when the parent, guardian, custodian, or person having 15177
custody or control of a child treats the physical or mental 15178
illness or defect of the child by spiritual means through prayer 15179
alone, in accordance with the tenets of a recognized religious 15180
body. 15181

(B) No person shall do any of the following to a child under 15182
eighteen years of age or a mentally or physically handicapped 15183
child under twenty-one years of age: 15184

(1) Abuse the child; 15185

(2) Torture or cruelly abuse the child; 15186

(3) Administer corporal punishment or other physical 15187
disciplinary measure, or physically restrain the child in a cruel 15188
manner or for a prolonged period, which punishment, discipline, or 15189
restraint is excessive under the circumstances and creates a 15190
substantial risk of serious physical harm to the child; 15191

(4) Repeatedly administer unwarranted disciplinary measures 15192

to the child, when there is a substantial risk that such conduct,
if continued, will seriously impair or retard the child's mental
health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ,
use, or allow the child to act, model, or in any other way
participate in, or be photographed for, the production,
presentation, dissemination, or advertisement of any material or
performance that the offender knows or reasonably should know is
obscene, is sexually oriented matter, or is nudity-oriented
matter;

(6) Allow the child to be on the same parcel of real property
and within one hundred feet of, or, in the case of more than one
housing unit on the same parcel of real property, in the same
housing unit and within one hundred feet of, any act in violation
of section 2925.04 or 2925.041 of the Revised Code when the person
knows that the act is occurring, whether or not any person is
prosecuted for or convicted of the violation of section 2925.04 or
2925.041 of the Revised Code that is the basis of the violation of
this division;

(7) Possess or use methamphetamine in the presence of the
child or possess in the presence of the child an ephedrine
product, phenylpropanolamine product, pseudoephedrine product, or
combination of those products in an amount in excess of six grams
of the product or combination of those products.

(C)(1) No person shall operate a vehicle, streetcar, or
trackless trolley within this state in violation of division (A)
of section 4511.19 of the Revised Code when one or more children
under eighteen years of age are in the vehicle, streetcar, or
trackless trolley. Notwithstanding any other provision of law, a
person may be convicted at the same trial or proceeding of a
violation of this division and a violation of division (A) of

section 4511.19 of the Revised Code that constitutes the basis of 15224
the charge of the violation of this division. For purposes of 15225
sections 4511.191 to 4511.197 of the Revised Code and all related 15226
provisions of law, a person arrested for a violation of this 15227
division shall be considered to be under arrest for operating a 15228
vehicle while under the influence of alcohol, a drug of abuse, or 15229
a combination of them or for operating a vehicle with a prohibited 15230
concentration of alcohol in the whole blood, blood serum or 15231
plasma, breath, or urine. 15232

(2) As used in division (C)(1) of this section, "vehicle," 15233
"streetcar," and "trackless trolley" have the same meanings as in 15234
section 4511.01 of the Revised Code. 15235

(D)(1) Division (B)(5) of this section does not apply to any 15236
material or performance that is produced, presented, or 15237
disseminated for a bona fide medical, scientific, educational, 15238
religious, governmental, judicial, or other proper purpose, by or 15239
to a physician, psychologist, sociologist, scientist, teacher, 15240
person pursuing bona fide studies or research, librarian, member 15241
of the clergy, prosecutor, judge, or other person having a proper 15242
interest in the material or performance. 15243

(2) Mistake of age is not a defense to a charge under 15244
division (B)(5) of this section. 15245

(3) In a prosecution under division (B)(5) of this section, 15246
the trier of fact may infer that an actor, model, or participant 15247
in the material or performance involved is a juvenile if the 15248
material or performance, through its title, text, visual 15249
representation, or otherwise, represents or depicts the actor, 15250
model, or participant as a juvenile. 15251

(4) As used in this division and division (B)(5) of this 15252
section: 15253

(a) "Material," "performance," "obscene," and "sexual 15254

activity" have the same meanings as in section 2907.01 of the Revised Code. 15255
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(b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest. 15257
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(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality. 15261
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(E)(1) Whoever violates this section is guilty of endangering children. 15264
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(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following: 15266
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(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree; 15268
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(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree; 15270
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(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree; 15275
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(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree. 15278
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(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child 15281
15282
15283
15284

involved, or if the offender previously has been convicted of an 15285
offense under this section or of any offense involving neglect, 15286
abandonment, contributing to the delinquency of, or physical abuse 15287
of a child, endangering children is a felony of the second degree. 15288

(4) If the offender violates division (B)(5) of this section, 15289
endangering children is a felony of the second degree. 15290

(5) If the offender violates division (B)(7) of this section, 15291
endangering children is a felony of the fourth degree. 15292

(6) If the offender violates division (C) of this section, 15293
the offender shall be punished as follows: 15294

(a) Except as otherwise provided in division (E)~~(5)~~(6)(b) or 15295
(c) of this section, endangering children in violation of division 15296
(C) of this section is a misdemeanor of the first degree. 15297

(b) If the violation results in serious physical harm to the 15298
child involved or the offender previously has been convicted of an 15299
offense under this section or any offense involving neglect, 15300
abandonment, contributing to the delinquency of, or physical abuse 15301
of a child, except as otherwise provided in division (E)~~(5)~~(6)(c) 15302
of this section, endangering children in violation of division (C) 15303
of this section is a felony of the fifth degree. 15304

(c) If the violation results in serious physical harm to the 15305
child involved and if the offender previously has been convicted 15306
of a violation of division (C) of this section, section 2903.06 or 15307
2903.08 of the Revised Code, section 2903.07 of the Revised Code 15308
as it existed prior to March 23, 2000, or section 2903.04 of the 15309
Revised Code in a case in which the offender was subject to the 15310
sanctions described in division (D) of that section, endangering 15311
children in violation of division (C) of this section is a felony 15312
of the fourth degree. 15313

(d) In addition to any term of imprisonment, fine, or other 15314

sentence, penalty, or sanction it imposes upon the offender 15315
pursuant to division (E)~~(5)~~(6)(a), (b), or (c) of this section or 15316
pursuant to any other provision of law and in addition to any 15317
suspension of the offender's driver's or commercial driver's 15318
license or permit or nonresident operating privilege under Chapter 15319
4506., 4509., 4510., or 4511. of the Revised Code or under any 15320
other provision of law, the court also may impose upon the 15321
offender a class seven suspension of the offender's driver's or 15322
commercial driver's license or permit or nonresident operating 15323
privilege from the range specified in division (A)(7) of section 15324
4510.02 of the Revised Code. 15325

(e) In addition to any term of imprisonment, fine, or other 15326
sentence, penalty, or sanction imposed upon the offender pursuant 15327
to division (E)~~(5)~~(6)(a), (b), (c), or (d) of this section or 15328
pursuant to any other provision of law for the violation of 15329
division (C) of this section, if as part of the same trial or 15330
proceeding the offender also is convicted of or pleads guilty to a 15331
separate charge charging the violation of division (A) of section 15332
4511.19 of the Revised Code that was the basis of the charge of 15333
the violation of division (C) of this section, the offender also 15334
shall be sentenced in accordance with section 4511.19 of the 15335
Revised Code for that violation of division (A) of section 4511.19 15336
of the Revised Code. 15337

(F)(1)(a) A court may require an offender to perform not more 15338
than two hundred hours of supervised community service work under 15339
the authority of an agency, subdivision, or charitable 15340
organization. The requirement shall be part of the community 15341
control sanction or sentence of the offender, and the court shall 15342
impose the community service in accordance with and subject to 15343
divisions (F)(1)(a) and (b) of this section. The court may require 15344
an offender whom it requires to perform supervised community 15345
service work as part of the offender's community control sanction 15346

or sentence to pay the court a reasonable fee to cover the costs 15347
of the offender's participation in the work, including, but not 15348
limited to, the costs of procuring a policy or policies of 15349
liability insurance to cover the period during which the offender 15350
will perform the work. If the court requires the offender to 15351
perform supervised community service work as part of the 15352
offender's community control sanction or sentence, the court shall 15353
do so in accordance with the following limitations and criteria: 15354

(i) The court shall require that the community service work 15355
be performed after completion of the term of imprisonment or jail 15356
term imposed upon the offender for the violation of division (C) 15357
of this section, if applicable. 15358

(ii) The supervised community service work shall be subject 15359
to the limitations set forth in divisions (B)(1), (2), and (3) of 15360
section 2951.02 of the Revised Code. 15361

(iii) The community service work shall be supervised in the 15362
manner described in division (B)(4) of section 2951.02 of the 15363
Revised Code by an official or person with the qualifications 15364
described in that division. The official or person periodically 15365
shall report in writing to the court concerning the conduct of the 15366
offender in performing the work. 15367

(iv) The court shall inform the offender in writing that if 15368
the offender does not adequately perform, as determined by the 15369
court, all of the required community service work, the court may 15370
order that the offender be committed to a jail or workhouse for a 15371
period of time that does not exceed the term of imprisonment that 15372
the court could have imposed upon the offender for the violation 15373
of division (C) of this section, reduced by the total amount of 15374
time that the offender actually was imprisoned under the sentence 15375
or term that was imposed upon the offender for that violation and 15376
by the total amount of time that the offender was confined for any 15377

reason arising out of the offense for which the offender was 15378
convicted and sentenced as described in sections 2949.08 and 15379
2967.191 of the Revised Code, and that, if the court orders that 15380
the offender be so committed, the court is authorized, but not 15381
required, to grant the offender credit upon the period of the 15382
commitment for the community service work that the offender 15383
adequately performed. 15384

(b) If a court, pursuant to division (F)(1)(a) of this 15385
section, orders an offender to perform community service work as 15386
part of the offender's community control sanction or sentence and 15387
if the offender does not adequately perform all of the required 15388
community service work, as determined by the court, the court may 15389
order that the offender be committed to a jail or workhouse for a 15390
period of time that does not exceed the term of imprisonment that 15391
the court could have imposed upon the offender for the violation 15392
of division (C) of this section, reduced by the total amount of 15393
time that the offender actually was imprisoned under the sentence 15394
or term that was imposed upon the offender for that violation and 15395
by the total amount of time that the offender was confined for any 15396
reason arising out of the offense for which the offender was 15397
convicted and sentenced as described in sections 2949.08 and 15398
2967.191 of the Revised Code. The court may order that a person 15399
committed pursuant to this division shall receive hour-for-hour 15400
credit upon the period of the commitment for the community service 15401
work that the offender adequately performed. No commitment 15402
pursuant to this division shall exceed the period of the term of 15403
imprisonment that the sentencing court could have imposed upon the 15404
offender for the violation of division (C) of this section, 15405
reduced by the total amount of time that the offender actually was 15406
imprisoned under that sentence or term and by the total amount of 15407
time that the offender was confined for any reason arising out of 15408
the offense for which the offender was convicted and sentenced as 15409

described in sections 2949.08 and 2967.191 of the Revised Code. 15410

(2) Division (F)(1) of this section does not limit or affect 15411
the authority of the court to suspend the sentence imposed upon a 15412
misdemeanor offender and place the offender under a community 15413
control sanction pursuant to section 2929.25 of the Revised Code, 15414
to require a misdemeanor or felony offender to perform supervised 15415
community service work in accordance with division (B) of section 15416
2951.02 of the Revised Code, or to place a felony offender under a 15417
community control sanction. 15418

(G)(1) If a court suspends an offender's driver's or 15419
commercial driver's license or permit or nonresident operating 15420
privilege under division (E)~~(5)~~(6)(d) of this section, the period 15421
of the suspension shall be consecutive to, and commence after, the 15422
period of suspension of the offender's driver's or commercial 15423
driver's license or permit or nonresident operating privilege that 15424
is imposed under Chapter 4506., 4509., 4510., or 4511. of the 15425
Revised Code or under any other provision of law in relation to 15426
the violation of division (C) of this section that is the basis of 15427
the suspension under division (E)~~(5)~~(6)(d) of this section or in 15428
relation to the violation of division (A) of section 4511.19 of 15429
the Revised Code that is the basis for that violation of division 15430
(C) of this section. 15431

(2) An offender is not entitled to request, and the court 15432
shall not grant to the offender, limited driving privileges if the 15433
offender's license, permit, or privilege has been suspended under 15434
division (E)~~(5)~~(6)(d) of this section and the offender, within the 15435
preceding six years, has been convicted of or pleaded guilty to 15436
three or more violations of one or more of the following: 15437

(a) Division (C) of this section; 15438

(b) Any equivalent offense, as defined in section 4511.181 of 15439
the Revised Code. 15440

(H)(1) If a person violates division (C) of this section and 15441
if, at the time of the violation, there were two or more children 15442
under eighteen years of age in the motor vehicle involved in the 15443
violation, the offender may be convicted of a violation of 15444
division (C) of this section for each of the children, but the 15445
court may sentence the offender for only one of the violations. 15446

(2)(a) If a person is convicted of or pleads guilty to a 15447
violation of division (C) of this section but the person is not 15448
also convicted of and does not also plead guilty to a separate 15449
charge charging the violation of division (A) of section 4511.19 15450
of the Revised Code that was the basis of the charge of the 15451
violation of division (C) of this section, both of the following 15452
apply: 15453

(i) For purposes of the provisions of section 4511.19 of the 15454
Revised Code that set forth the penalties and sanctions for a 15455
violation of division (A) of section 4511.19 of the Revised Code, 15456
the conviction of or plea of guilty to the violation of division 15457
(C) of this section shall not constitute a violation of division 15458
(A) of section 4511.19 of the Revised Code; 15459

(ii) For purposes of any provision of law that refers to a 15460
conviction of or plea of guilty to a violation of division (A) of 15461
section 4511.19 of the Revised Code and that is not described in 15462
division (H)(2)(a)(i) of this section, the conviction of or plea 15463
of guilty to the violation of division (C) of this section shall 15464
constitute a conviction of or plea of guilty to a violation of 15465
division (A) of section 4511.19 of the Revised Code. 15466

(b) If a person is convicted of or pleads guilty to a 15467
violation of division (C) of this section and the person also is 15468
convicted of or pleads guilty to a separate charge charging the 15469
violation of division (A) of section 4511.19 of the Revised Code 15470
that was the basis of the charge of the violation of division (C) 15471

of this section, the conviction of or plea of guilty to the 15472
violation of division (C) of this section shall not constitute, 15473
for purposes of any provision of law that refers to a conviction 15474
of or plea of guilty to a violation of division (A) of section 15475
4511.19 of the Revised Code, a conviction of or plea of guilty to 15476
a violation of division (A) of section 4511.19 of the Revised 15477
Code. 15478

(I) As used in this section: 15479

(1) "Community control sanction" has the same meaning as in 15480
section 2929.01 of the Revised Code; 15481

(2) "Limited driving privileges" has the same meaning as in 15482
section 4501.01 of the Revised Code; 15483

(3) "Ephedrine product," "phenylpropanolamine product," and 15484
"pseudoephedrine product" have the same meanings as in section 15485
2925.01 of the Revised Code. 15486

Sec. 2921.13. (A) No person shall knowingly make a false 15487
statement, or knowingly swear or affirm the truth of a false 15488
statement previously made, when any of the following applies: 15489

(1) The statement is made in any official proceeding. 15490

(2) The statement is made with purpose to incriminate 15491
another. 15492

(3) The statement is made with purpose to mislead a public 15493
official in performing the public official's official function. 15494

(4) The statement is made with purpose to secure the payment 15495
of unemployment compensation; Ohio works first; prevention, 15496
retention, and contingency benefits and services; disability 15497
financial assistance; retirement benefits; economic development 15498
assistance, as defined in section 9.66 of the Revised Code; or 15499
other benefits administered by a governmental agency or paid out 15500

of a public treasury. 15501

(5) The statement is made with purpose to secure the issuance 15502
by a governmental agency of a license, permit, authorization, 15503
certificate, registration, release, or provider agreement. 15504

(6) The statement is sworn or affirmed before a notary public 15505
or another person empowered to administer oaths. 15506

(7) The statement is in writing on or in connection with a 15507
report or return that is required or authorized by law. 15508

(8) The statement is in writing and is made with purpose to 15509
induce another to extend credit to or employ the offender, to 15510
confer any degree, diploma, certificate of attainment, award of 15511
excellence, or honor on the offender, or to extend to or bestow 15512
upon the offender any other valuable benefit or distinction, when 15513
the person to whom the statement is directed relies upon it to 15514
that person's detriment. 15515

(9) The statement is made with purpose to commit or 15516
facilitate the commission of a theft offense. 15517

(10) The statement is knowingly made to a probate court in 15518
connection with any action, proceeding, or other matter within its 15519
jurisdiction, either orally or in a written document, including, 15520
but not limited to, an application, petition, complaint, or other 15521
pleading, or an inventory, account, or report. 15522

(11) The statement is made on an account, form, record, 15523
stamp, label, or other writing that is required by law. 15524

(12) The statement is made in connection with the purchase of 15525
a firearm, as defined in section 2923.11 of the Revised Code, and 15526
in conjunction with the furnishing to the seller of the firearm of 15527
a fictitious or altered driver's or commercial driver's license or 15528
permit, a fictitious or altered identification card, or any other 15529
document that contains false information about the purchaser's 15530

identity. 15531

(13) The statement is made in a document or instrument of 15532
writing that purports to be a judgment, lien, or claim of 15533
indebtedness and is filed or recorded with the secretary of state, 15534
a county recorder, or the clerk of a court of record. 15535

(14) The statement is made with purpose to obtain an Ohio's 15536
best Rx program enrollment card under section 5110.09 of the 15537
Revised Code or a payment from the department of job and family 15538
services under section 5110.17 of the Revised Code. 15539

~~(14)~~(15) The statement is made in an application filed with a 15540
county sheriff pursuant to section 2923.125 of the Revised Code in 15541
order to obtain or renew a license to carry a concealed handgun or 15542
is made in an affidavit submitted to a county sheriff to obtain a 15543
temporary emergency license to carry a concealed handgun under 15544
section 2923.1213 of the Revised Code. 15545

(16) The statement is required under section 5743.72 of the 15546
Revised Code in connection with the person's purchase of 15547
cigarettes or tobacco products in a delivery sale. 15548

(B) No person, in connection with the purchase of a firearm, 15549
as defined in section 2923.11 of the Revised Code, shall knowingly 15550
furnish to the seller of the firearm a fictitious or altered 15551
driver's or commercial driver's license or permit, a fictitious or 15552
altered identification card, or any other document that contains 15553
false information about the purchaser's identity. 15554

(C) No person, in an attempt to obtain a license to carry a 15555
concealed handgun under section 2923.125 of the Revised Code, 15556
shall knowingly present to a sheriff a fictitious or altered 15557
document that purports to be certification of the person's 15558
competence in handling a handgun as described in division (B)(3) 15559
of section 2923.125 of the Revised Code. 15560

(D) It is no defense to a charge under division (A)(6) of 15561
this section that the oath or affirmation was administered or 15562
taken in an irregular manner. 15563

(E) If contradictory statements relating to the same fact are 15564
made by the offender within the period of the statute of 15565
limitations for falsification, it is not necessary for the 15566
prosecution to prove which statement was false but only that one 15567
or the other was false. 15568

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 15569
(6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section 15570
is guilty of falsification, a misdemeanor of the first degree. 15571

(2) Whoever violates division (A)(9) of this section is 15572
guilty of falsification in a theft offense. Except as otherwise 15573
provided in this division, falsification in a theft offense is a 15574
misdemeanor of the first degree. If the value of the property or 15575
services stolen is five hundred dollars or more and is less than 15576
five thousand dollars, falsification in a theft offense is a 15577
felony of the fifth degree. If the value of the property or 15578
services stolen is five thousand dollars or more and is less than 15579
one hundred thousand dollars, falsification in a theft offense is 15580
a felony of the fourth degree. If the value of the property or 15581
services stolen is one hundred thousand dollars or more, 15582
falsification in a theft offense is a felony of the third degree. 15583

(3) Whoever violates division (A)(12) or (B) of this section 15584
is guilty of falsification to purchase a firearm, a felony of the 15585
fifth degree. 15586

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this 15587
section is guilty of falsification to obtain a concealed handgun 15588
license, a felony of the fourth degree. 15589

(G) A person who violates this section is liable in a civil 15590
action to any person harmed by the violation for injury, death, or 15591

loss to person or property incurred as a result of the commission 15592
of the offense and for reasonable attorney's fees, court costs, 15593
and other expenses incurred as a result of prosecuting the civil 15594
action commenced under this division. A civil action under this 15595
division is not the exclusive remedy of a person who incurs 15596
injury, death, or loss to person or property as a result of a 15597
violation of this section. 15598

Sec. 2923.25. Each federally licensed firearms dealer who 15599
sells any firearm, at the time of the sale of the firearm, shall 15600
offer for sale to the purchaser of the firearm a trigger lock, gun 15601
lock, or gun locking device that is appropriate for that firearm. 15602
Each federally licensed firearms dealer shall post in a 15603
conspicuous location in the dealer's place of business the poster 15604
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 15605
Revised Code and shall make available to all purchasers of 15606
firearms from the dealer the brochure furnished to the dealer 15607
pursuant to that section. 15608

As used in this section, "federally licensed firearms dealer" 15609
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 15610
Code. 15611

Sec. 2925.01. As used in this chapter: 15612

(A) "Administer," "controlled substance," "dispense," 15613
"distribute," "hypodermic," "manufacturer," "official written 15614
order," "person," "pharmacist," "pharmacy," "sale," "schedule I," 15615
"schedule II," "schedule III," "schedule IV," "schedule V," and 15616
"wholesaler" have the same meanings as in section 3719.01 of the 15617
Revised Code. 15618

(B) "Drug dependent person" and "drug of abuse" have the same 15619
meanings as in section 3719.011 of the Revised Code. 15620

(C) "Drug," "dangerous drug," "licensed health professional 15621

authorized to prescribe drugs," ~~and~~ "manufacturer of dangerous 15622
drugs," "prescription," and "terminal distributor of drugs" have 15623
the same meanings as in section 4729.01 of the Revised Code. 15624

(D) "Bulk amount" of a controlled substance means any of the 15625
following: 15626

(1) For any compound, mixture, preparation, or substance 15627
included in schedule I, schedule II, or schedule III, with the 15628
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 15629
except as provided in division (D)(2) or (5) of this section, 15630
whichever of the following is applicable: 15631

(a) An amount equal to or exceeding ten grams or twenty-five 15632
unit doses of a compound, mixture, preparation, or substance that 15633
is or contains any amount of a schedule I opiate or opium 15634
derivative; 15635

(b) An amount equal to or exceeding ten grams of a compound, 15636
mixture, preparation, or substance that is or contains any amount 15637
of raw or gum opium; 15638

(c) An amount equal to or exceeding thirty grams or ten unit 15639
doses of a compound, mixture, preparation, or substance that is or 15640
contains any amount of a schedule I hallucinogen other than 15641
tetrahydrocannabinol or lysergic acid amide, or a schedule I 15642
stimulant or depressant; 15643

(d) An amount equal to or exceeding twenty grams or five 15644
times the maximum daily dose in the usual dose range specified in 15645
a standard pharmaceutical reference manual of a compound, mixture, 15646
preparation, or substance that is or contains any amount of a 15647
schedule II opiate or opium derivative; 15648

(e) An amount equal to or exceeding five grams or ten unit 15649
doses of a compound, mixture, preparation, or substance that is or 15650
contains any amount of phencyclidine; 15651

(f) An amount equal to or exceeding one hundred twenty grams 15652
or thirty times the maximum daily dose in the usual dose range 15653
specified in a standard pharmaceutical reference manual of a 15654
compound, mixture, preparation, or substance that is or contains 15655
any amount of a schedule II stimulant that is in a final dosage 15656
form manufactured by a person authorized by the "Federal Food, 15657
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 15658
amended, and the federal drug abuse control laws, as defined in 15659
section 3719.01 of the Revised Code, that is or contains any 15660
amount of a schedule II depressant substance or a schedule II 15661
hallucinogenic substance; 15662

(g) An amount equal to or exceeding three grams of a 15663
compound, mixture, preparation, or substance that is or contains 15664
any amount of a schedule II stimulant, or any of its salts or 15665
isomers, that is not in a final dosage form manufactured by a 15666
person authorized by the Federal Food, Drug, and Cosmetic Act and 15667
the federal drug abuse control laws. 15668

(2) An amount equal to or exceeding one hundred twenty grams 15669
or thirty times the maximum daily dose in the usual dose range 15670
specified in a standard pharmaceutical reference manual of a 15671
compound, mixture, preparation, or substance that is or contains 15672
any amount of a schedule III or IV substance other than an 15673
anabolic steroid or a schedule III opiate or opium derivative; 15674

(3) An amount equal to or exceeding twenty grams or five 15675
times the maximum daily dose in the usual dose range specified in 15676
a standard pharmaceutical reference manual of a compound, mixture, 15677
preparation, or substance that is or contains any amount of a 15678
schedule III opiate or opium derivative; 15679

(4) An amount equal to or exceeding two hundred fifty 15680
milliliters or two hundred fifty grams of a compound, mixture, 15681
preparation, or substance that is or contains any amount of a 15682

schedule V substance; 15683

(5) An amount equal to or exceeding two hundred solid dosage 15684
units, sixteen grams, or sixteen milliliters of a compound, 15685
mixture, preparation, or substance that is or contains any amount 15686
of a schedule III anabolic steroid. 15687

(E) "Unit dose" means an amount or unit of a compound, 15688
mixture, or preparation containing a controlled substance that is 15689
separately identifiable and in a form that indicates that it is 15690
the amount or unit by which the controlled substance is separately 15691
administered to or taken by an individual. 15692

(F) "Cultivate" includes planting, watering, fertilizing, or 15693
tilling. 15694

(G) "Drug abuse offense" means any of the following: 15695

(1) A violation of division (A) of section 2913.02 that 15696
constitutes theft of drugs, or a violation of section 2925.02, 15697
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 15698
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 15699
2925.37 of the Revised Code; 15700

(2) A violation of an existing or former law of this or any 15701
other state or of the United States that is substantially 15702
equivalent to any section listed in division (G)(1) of this 15703
section; 15704

(3) An offense under an existing or former law of this or any 15705
other state, or of the United States, of which planting, 15706
cultivating, harvesting, processing, making, manufacturing, 15707
producing, shipping, transporting, delivering, acquiring, 15708
possessing, storing, distributing, dispensing, selling, inducing 15709
another to use, administering to another, using, or otherwise 15710
dealing with a controlled substance is an element; 15711

(4) A conspiracy to commit, attempt to commit, or complicity 15712

in committing or attempting to commit any offense under division	15713
(G)(1), (2), or (3) of this section.	15714
(H) "Felony drug abuse offense" means any drug abuse offense	15715
that would constitute a felony under the laws of this state, any	15716
other state, or the United States.	15717
(I) "Harmful intoxicant" does not include beer or	15718
intoxicating liquor but means any of the following:	15719
(1) Any compound, mixture, preparation, or substance the gas,	15720
fumes, or vapor of which when inhaled can induce intoxication,	15721
excitement, giddiness, irrational behavior, depression,	15722
stupefaction, paralysis, unconsciousness, asphyxiation, or other	15723
harmful physiological effects, and includes, but is not limited	15724
to, any of the following:	15725
(a) Any volatile organic solvent, plastic cement, model	15726
cement, fingernail polish remover, lacquer thinner, cleaning	15727
fluid, gasoline, or other preparation containing a volatile	15728
organic solvent;	15729
(b) Any aerosol propellant;	15730
(c) Any fluorocarbon refrigerant;	15731
(d) Any anesthetic gas.	15732
(2) Gamma Butyrolactone;	15733
(3) 1,4 Butanediol.	15734
(J) "Manufacture" means to plant, cultivate, harvest,	15735
process, make, prepare, or otherwise engage in any part of the	15736
production of a drug, by propagation, extraction, chemical	15737
synthesis, or compounding, or any combination of the same, and	15738
includes packaging, repackaging, labeling, and other activities	15739
incident to production.	15740
(K) "Possess" or "possession" means having control over a	15741

thing or substance, but may not be inferred solely from mere 15742
access to the thing or substance through ownership or occupation 15743
of the premises upon which the thing or substance is found. 15744

(L) "Sample drug" means a drug or pharmaceutical preparation 15745
that would be hazardous to health or safety if used without the 15746
supervision of a licensed health professional authorized to 15747
prescribe drugs, or a drug of abuse, and that, at one time, had 15748
been placed in a container plainly marked as a sample by a 15749
manufacturer. 15750

(M) "Standard pharmaceutical reference manual" means the 15751
current edition, with cumulative changes if any, of any of the 15752
following reference works: 15753

(1) "The National Formulary"; 15754

(2) "The United States Pharmacopeia," prepared by authority 15755
of the United States Pharmacopeial Convention, Inc.; 15756

(3) Other standard references that are approved by the state 15757
board of pharmacy. 15758

(N) "Juvenile" means a person under eighteen years of age. 15759

(O) "Counterfeit controlled substance" means any of the 15760
following: 15761

(1) Any drug that bears, or whose container or label bears, a 15762
trademark, trade name, or other identifying mark used without 15763
authorization of the owner of rights to that trademark, trade 15764
name, or identifying mark; 15765

(2) Any unmarked or unlabeled substance that is represented 15766
to be a controlled substance manufactured, processed, packed, or 15767
distributed by a person other than the person that manufactured, 15768
processed, packed, or distributed it; 15769

(3) Any substance that is represented to be a controlled 15770
substance but is not a controlled substance or is a different 15771

controlled substance; 15772

(4) Any substance other than a controlled substance that a 15773
reasonable person would believe to be a controlled substance 15774
because of its similarity in shape, size, and color, or its 15775
markings, labeling, packaging, distribution, or the price for 15776
which it is sold or offered for sale. 15777

(P) An offense is "committed in the vicinity of a school" if 15778
the offender commits the offense on school premises, in a school 15779
building, or within one thousand feet of the boundaries of any 15780
school premises, regardless of whether the offender knows the 15781
offense is being committed on school premises, in a school 15782
building, or within one thousand feet of the boundaries of any 15783
school premises. 15784

(Q) "School" means any school operated by a board of 15785
education, any community school established under Chapter 3314. of 15786
the Revised Code, or any nonpublic school for which the state 15787
board of education prescribes minimum standards under section 15788
3301.07 of the Revised Code, whether or not any instruction, 15789
extracurricular activities, or training provided by the school is 15790
being conducted at the time a criminal offense is committed. 15791

(R) "School premises" means either of the following: 15792

(1) The parcel of real property on which any school is 15793
situated, whether or not any instruction, extracurricular 15794
activities, or training provided by the school is being conducted 15795
on the premises at the time a criminal offense is committed; 15796

(2) Any other parcel of real property that is owned or leased 15797
by a board of education of a school, the governing authority of a 15798
community school established under Chapter 3314. of the Revised 15799
Code, or the governing body of a nonpublic school for which the 15800
state board of education prescribes minimum standards under 15801
section 3301.07 of the Revised Code and on which some of the 15802

instruction, extracurricular activities, or training of the school 15803
is conducted, whether or not any instruction, extracurricular 15804
activities, or training provided by the school is being conducted 15805
on the parcel of real property at the time a criminal offense is 15806
committed. 15807

(S) "School building" means any building in which any of the 15808
instruction, extracurricular activities, or training provided by a 15809
school is conducted, whether or not any instruction, 15810
extracurricular activities, or training provided by the school is 15811
being conducted in the school building at the time a criminal 15812
offense is committed. 15813

(T) "Disciplinary counsel" means the disciplinary counsel 15814
appointed by the board of commissioners on grievances and 15815
discipline of the supreme court under the Rules for the Government 15816
of the Bar of Ohio. 15817

(U) "Certified grievance committee" means a duly constituted 15818
and organized committee of the Ohio state bar association or of 15819
one or more local bar associations of the state of Ohio that 15820
complies with the criteria set forth in Rule V, section 6 of the 15821
Rules for the Government of the Bar of Ohio. 15822

(V) "Professional license" means any license, permit, 15823
certificate, registration, qualification, admission, temporary 15824
license, temporary permit, temporary certificate, or temporary 15825
registration that is described in divisions (W)(1) to (36) of this 15826
section and that qualifies a person as a professionally licensed 15827
person. 15828

(W) "Professionally licensed person" means any of the 15829
following: 15830

(1) A person who has obtained a license as a manufacturer of 15831
controlled substances or a wholesaler of controlled substances 15832
under Chapter 3719. of the Revised Code; 15833

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds an Ohio permit issued under that chapter;	15834 15835 15836 15837
(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;	15838 15839 15840
(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;	15841 15842 15843
(5) A person licensed under Chapter 4707. of the Revised Code;	15844 15845
(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;	15846 15847 15848
(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;	15849 15850 15851
(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter 4713. of the Revised Code;	15852 15853 15854 15855 15856 15857 15858 15859 15860 15861
(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous	15862 15863

sedation permit, a limited resident's license, a limited teaching	15864
license, a dental hygienist's license, or a dental hygienist's	15865
teacher's certificate under Chapter 4715. of the Revised Code;	15866
(10) A person who has been issued an embalmer's license, a	15867
funeral director's license, a funeral home license, or a crematory	15868
license, or who has been registered for an embalmer's or funeral	15869
director's apprenticeship under Chapter 4717. of the Revised Code;	15870
(11) A person who has been licensed as a registered nurse or	15871
practical nurse, or who has been issued a certificate for the	15872
practice of nurse-midwifery under Chapter 4723. of the Revised	15873
Code;	15874
(12) A person who has been licensed to practice optometry or	15875
to engage in optical dispensing under Chapter 4725. of the Revised	15876
Code;	15877
(13) A person licensed to act as a pawnbroker under Chapter	15878
4727. of the Revised Code;	15879
(14) A person licensed to act as a precious metals dealer	15880
under Chapter 4728. of the Revised Code;	15881
(15) A person licensed as a pharmacist, a pharmacy intern, a	15882
wholesale distributor of dangerous drugs, or a terminal	15883
distributor of dangerous drugs under Chapter 4729. of the Revised	15884
Code;	15885
(16) A person who is authorized to practice as a physician	15886
assistant under Chapter 4730. of the Revised Code;	15887
(17) A person who has been issued a certificate to practice	15888
medicine and surgery, osteopathic medicine and surgery, a limited	15889
branch of medicine, or podiatry under Chapter 4731. of the Revised	15890
Code;	15891
(18) A person licensed as a psychologist or school	15892
psychologist under Chapter 4732. of the Revised Code;	15893

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	15894 15895
(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	15896 15897
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	15898 15899
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	15900 15901
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	15902 15903
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	15904 15905
(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	15906 15907
(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;	15908 15909 15910 15911
(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;	15912 15913 15914
(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;	15915 15916 15917
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	15918 15919 15920
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised	15921 15922

Code;	15923
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	15924 15925
(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;	15926 15927 15928 15929
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	15930 15931
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	15932 15933 15934
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	15935 15936
(36) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.	15937 15938 15939
(X) "Cocaine" means any of the following:	15940
(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;	15941 15942
(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;	15943 15944 15945 15946
(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.	15947 15948 15949 15950 15951 15952

(Y) "L.S.D." means lysergic acid diethylamide.	15953
(Z) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.	15954 15955 15956
(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include hashish.	15957 15958
(BB) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.	15959 15960 15961 15962 15963 15964 15965
(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.	15966 15967 15968 15969 15970 15971
(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.	15972 15973
(EE) "Minor drug possession offense" means either of the following:	15974 15975
(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;	15976 15977
(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.	15978 15979 15980
(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	15981 15982

(GG) "Crack cocaine" means a compound, mixture, preparation, 15983
or substance that is or contains any amount of cocaine that is 15984
analytically identified as the base form of cocaine or that is in 15985
a form that resembles rocks or pebbles generally intended for 15986
individual use. 15987

(HH) "Adulterate" means to cause a drug to be adulterated as 15988
described in section 3715.63 of the Revised Code. 15989

(II) "Public premises" means any hotel, restaurant, tavern, 15990
store, arena, hall, or other place of public accommodation, 15991
business, amusement, or resort. 15992

(JJ) "Consumer product" means any food or drink that is 15993
consumed or used by humans and any drug, including a drug that may 15994
be provided legally only pursuant to a prescription, that is 15995
intended to be consumed or used by humans. 15996

(KK) "Ephedrine" means any material, compound, mixture, or 15997
preparation that contains any quantity of ephedrine, its salts or 15998
optical isomers, or salts of optical isomers. 15999

(LL)(1) "Ephedrine product" means, subject to division 16000
(LL)(2) of this section, any consumer product that consists of a 16001
single-ingredient preparation of ephedrine in which ephedrine is 16002
the single active ingredient. 16003

(2) "Ephedrine product" does not include any consumer product 16004
described in division (LL)(1) of this section that is in pediatric 16005
form, or in liquid, liquid capsule, or gel capsule form. 16006

(MM) "Phenylpropanolamine" means any material, compound, 16007
mixture, or preparation that contains any quantity of 16008
phenylpropanolamine, its salts or optical isomers, or salts of 16009
optical isomers. 16010

(NN)(1) "Phenylpropanolamine product" means, subject to 16011
division (NN)(2) of this section, any consumer product that 16012

consists of a single-ingredient preparation of phenylpropanolamine 16013
in which phenylpropanolamine is the single active ingredient. 16014

(2) "Phenylpropanolamine product" does not include any 16015
consumer product described in division (NN)(1) of this section 16016
that is in pediatric form, or in liquid, liquid capsule, or gel 16017
capsule form. 16018

(OO) "Proof of age" means a driver's license, commercial 16019
driver's license, military identification card, passport, or 16020
identification card issued under sections 4507.50 to 4507.52 of 16021
the Revised Code that shows a person is eighteen years of age or 16022
older. 16023

(PP) "Pseudoephedrine" means any material, compound, mixture, 16024
or preparation that contains any quantity of pseudoephedrine, its 16025
salts or optical isomers, or salts of optical isomers. 16026

(OO)(1) "Pseudoephedrine product" means, subject to division 16027
(OO)(2) of this section, any consumer product that consists of a 16028
single-ingredient preparation of pseudoephedrine in which 16029
pseudoephedrine is the single active ingredient. 16030

(2) "Pseudoephedrine product" does not include any consumer 16031
product described in division (OO)(1) of this section that is in 16032
pediatric form, or in liquid, liquid capsule, or gel capsule form. 16033

(RR) "Retailer" means a place of business that offers 16034
consumer products for sale to the general public. 16035

(SS) "Single-ingredient preparation" means a compound, 16036
mixture, preparation, or substance that contains a single active 16037
ingredient. 16038

Sec. 2925.04. (A) No person shall knowingly cultivate 16039
marihuana or knowingly manufacture or otherwise engage in any part 16040
of the production of a controlled substance. 16041

(B) This section does not apply to any person listed in 16042
division (B)(1), (2), or (3) of section 2925.03 of the Revised 16043
Code to the extent and under the circumstances described in those 16044
divisions. 16045

(C)(1) Whoever commits a violation of division (A) of this 16046
section that involves any drug other than marihuana is guilty of 16047
illegal manufacture of drugs, and whoever commits a violation of 16048
division (A) of this section that involves marihuana is guilty of 16049
illegal cultivation of marihuana. 16050

(2) Except as otherwise provided in this division, if the 16051
drug involved in the violation of division (A) of this section is 16052
any compound, mixture, preparation, or substance included in 16053
schedule I or II, with the exception of marihuana, illegal 16054
manufacture of drugs is a felony of the second degree, and, 16055
subject to division (E) of this section, the court shall impose as 16056
a mandatory prison term one of the prison terms prescribed for a 16057
felony of the second degree. If the drug involved in the violation 16058
is any compound, mixture, preparation, or substance included in 16059
schedule I or II, with the exception of marihuana, and if the 16060
offense was committed in the vicinity of a juvenile or in the 16061
vicinity of a school, illegal manufacture of drugs is a felony of 16062
the first degree, and, subject to division (E) of this section, 16063
the court shall impose as a mandatory prison term one of the 16064
prison terms prescribed for a felony of the first degree. If the 16065
drug involved in the violation is methamphetamine, any salt, 16066
isomer, or salt of an isomer of methamphetamine, or any compound, 16067
mixture, preparation, or substance containing methamphetamine or 16068
any salt, isomer, or salt of an isomer of methamphetamine and if 16069
the offense was committed on public premises, in the vicinity of a 16070
juvenile, or in the vicinity of a school, illegal manufacture of 16071
drugs is a felony of the first degree, and, subject to division 16072
(E) of this section, the court shall impose as a mandatory prison 16073

term one of the prison terms prescribed for a felony of the first degree. 16074
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(3) If the drug involved in the violation of division (A) of this section is any compound, mixture, preparation, or substance included in schedule III, IV, or V, illegal manufacture of drugs is a felony of the third degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and there is a presumption for a prison term for the offense. 16076
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(4) If the drug involved in the violation is marihuana, the penalty for the offense shall be determined as follows: 16083
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(a) Except as otherwise provided in division (C)(4)(b), (c), (d), (e), or (f) of this section, illegal cultivation of marihuana is a minor misdemeanor or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree. 16085
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(b) If the amount of marihuana involved equals or exceeds one hundred grams but is less than two hundred grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree. 16090
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(c) If the amount of marihuana involved equals or exceeds two hundred grams but is less than one thousand grams, illegal cultivation of marihuana is a felony of the fifth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. 16095
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(d) If the amount of marihuana involved equals or exceeds one thousand grams but is less than five thousand grams, illegal cultivation of marihuana is a felony of the third degree or, if 16102
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the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(e) If the amount of marihuana involved equals or exceeds five thousand grams but is less than twenty thousand grams, illegal cultivation of marihuana is a felony of the third degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and there is a presumption for a prison term for the offense.

(f) Except as otherwise provided in this division, if the amount of marihuana involved equals or exceeds twenty thousand grams, illegal cultivation of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds twenty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal cultivation of marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall

impose upon the offender the mandatory fine specified for the
offense under division (B)(1) of section 2929.18 of the Revised
Code unless, as specified in that division, the court determines
that the offender is indigent. The clerk of the court shall pay a
mandatory fine or other fine imposed for a violation of this
section pursuant to division (A) of section 2929.18 of the Revised
Code in accordance with and subject to the requirements of
division (F) of section 2925.03 of the Revised Code. The agency
that receives the fine shall use the fine as specified in division
(F) of section 2925.03 of the Revised Code. If a person is charged
with a violation of this section that is a felony of the first,
second, or third degree, posts bail, and forfeits the bail, the
clerk shall pay the forfeited bail as if the forfeited bail were a
fine imposed for a violation of this section.

(2) The court shall suspend the offender's driver's or
commercial driver's license or permit in accordance with division
(G) of section 2925.03 of the Revised Code. If an offender's
driver's or commercial driver's license or permit is suspended in
accordance with that division, the offender may request
termination of, and the court may terminate, the suspension in
accordance with that division.

(3) If the offender is a professionally licensed person, the
court immediately shall comply with section 2925.38 of the Revised
Code.

(E) Notwithstanding the prison term otherwise authorized or
required for the offense under division (C) of this section and
sections 2929.13 and 2929.14 of the Revised Code, if the violation
of division (A) of this section involves the sale, offer to sell,
or possession of a schedule I or II controlled substance, with the
exception of marihuana, and if the court imposing sentence upon
the offender finds that the offender as a result of the violation
is a major drug offender and is guilty of a specification of the

type described in section 2941.1410 of the Revised Code, the
court, in lieu of the prison term otherwise authorized or
required, shall impose upon the offender the mandatory prison term
specified in division (D)(3)(a) of section 2929.14 of the Revised
Code and may impose an additional prison term under division
(D)(3)(b) of that section.

(F) It is an affirmative defense, as provided in section
2901.05 of the Revised Code, to a charge under this section for a
fifth degree felony violation of illegal cultivation of marihuana
that the marihuana that gave rise to the charge is in an amount,
is in a form, is prepared, compounded, or mixed with substances
that are not controlled substances in a manner, or is possessed or
cultivated under any other circumstances that indicate that the
marihuana was solely for personal use.

Notwithstanding any contrary provision of division (F) of
this section, if, in accordance with section 2901.05 of the
Revised Code, a person who is charged with a violation of illegal
cultivation of marihuana that is a felony of the fifth degree
sustains the burden of going forward with evidence of and
establishes by a preponderance of the evidence the affirmative
defense described in this division, the person may be prosecuted
for and may be convicted of or plead guilty to a misdemeanor
violation of illegal cultivation of marihuana.

(G) Arrest or conviction for a minor misdemeanor violation of
this section does not constitute a criminal record and need not be
reported by the person so arrested or convicted in response to any
inquiries about the person's criminal record, including any
inquiries contained in an application for employment, a license,
or any other right or privilege or made in connection with the
person's appearance as a witness.

Sec. 2925.041. (A) No person shall knowingly ~~assemble~~ do any

<u>of the following:</u>	16199
<u>(1) Assemble or possess any ephedrine product,</u>	16200
<u>phenylpropanolamine product, or pseudoephedrine product with the</u>	16201
<u>intent to use the product to manufacture methamphetamine or any</u>	16202
<u>other schedule I or II controlled substance;</u>	16203
<u>(2) Assemble or possess one or more chemicals, other than a</u>	16204
<u>product described in division (A)(1) of this section,</u> that may be	16205
used to manufacture a controlled substance in schedule I or II	16206
with the intent to manufacture a controlled substance in schedule	16207
I or II in violation of section 2925.04 of the Revised Code.	16208
(B)(1) In a prosecution under this section, it is not	16209
necessary to allege or prove that the offender assembled or	16210
possessed all chemicals necessary to manufacture a controlled	16211
substance in schedule I or II. The assembly or possession of a	16212
single chemical that may be used in the manufacture of a	16213
controlled substance in schedule I or II, with the intent to	16214
manufacture a controlled substance in either schedule, is	16215
sufficient to violate this section.	16216
<u>(2) In a prosecution under division (A)(1) of this section,</u>	16217
<u>except as otherwise provided in this division, the possession of</u>	16218
<u>twenty-four grams or more of an ephedrine product,</u>	16219
<u>phenylpropanolamine product, or pseudoephedrine product</u>	16220
<u>constitutes prima-facie evidence of the intent to use the product</u>	16221
<u>to manufacture methamphetamine or another schedule I or II</u>	16222
<u>controlled substance. The prima-facie evidence designation</u>	16223
<u>established by this division does not apply to any of the</u>	16224
<u>following who lawfully possesses drug products in the course of</u>	16225
<u>legitimate business:</u>	16226
<u>(a) A retailer that sells drug products or the agents or</u>	16227
<u>employees of a retailer that sells drug products in the course of</u>	16228
<u>carrying out their duties or employment with the retailer;</u>	16229

<u>(b) A wholesaler or the agents or employees of a wholesaler</u>	16230
<u>in the course of carrying out their duties or employment with the</u>	16231
<u>wholesaler;</u>	16232
<u>(c) A manufacturer or the agents or employees of a</u>	16233
<u>manufacturer in the course of carrying out their duties or</u>	16234
<u>employment with the manufacturer;</u>	16235
<u>(d) A pharmacist;</u>	16236
<u>(e) A licensed health care professional authorized to</u>	16237
<u>prescribe drugs possessing the drug products in the course of</u>	16238
<u>carrying out the person's profession;</u>	16239
<u>(f) A terminal distributor of dangerous drugs.</u>	16240
(C) Whoever violates this section is guilty of illegal	16241
assembly or possession of chemicals for the manufacture of drugs.	16242
Except as otherwise provided in this division, illegal assembly or	16243
possession of chemicals for the manufacture of drugs is a felony	16244
of the third degree, and division (C) of section 2929.13 of the	16245
Revised Code applies in determining whether to impose a prison	16246
term on the offender. If the offense was committed in the vicinity	16247
of a juvenile or in the vicinity of a school, illegal assembly or	16248
possession of chemicals for the manufacture of drugs is a felony	16249
of the second degree, and division (C) of section 2929.13 of the	16250
Revised Code applies in determining whether to impose a prison	16251
term on the offender.	16252
(D) In addition to any prison term authorized by division (C)	16253
of this section and sections 2929.13 and 2929.14 of the Revised	16254
Code and in addition to any other sanction imposed for the offense	16255
under this section or sections 2929.11 to 2929.18 of the Revised	16256
Code, the court that sentences an offender who is convicted of or	16257
pleads guilty to a violation of this section shall do all of the	16258
following that are applicable regarding the offender:	16259

(1) The court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. The clerk of the court shall pay a mandatory fine or other fine imposed for a violation of this section under division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code. If a person charged with a violation of this section posts bail and forfeits the bail, the clerk shall pay the forfeited bail as if the forfeited bail were a fine imposed for a violation of this section.

(2) The court shall revoke or suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of section 2925.03 of the Revised Code. If an offender's driver's or commercial driver's license or permit is revoked in accordance with that division, the offender may request termination of, and the court may terminate, the revocation in accordance with that division.

(3) If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules, the court shall comply with section 2925.38 of the Revised Code.

Sec. 2925.15. (A) No retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual within any thirty-day period an amount of ephedrine product, phenylpropanolamine product, or pseudoephedrine product that exceeds two packages of any one of those products or of any

combination of those products, with neither package so sold 16291
containing more than three grams of the product. 16292

(B) Each retailer or terminal distributor of dangerous drugs 16293
that sells, offers to sell, holds for sale, delivers, or otherwise 16294
provides any ephedrine product, phenylpropanolamine product, or 16295
pseudoephedrine product to the public shall do all of the 16296
following: 16297

(1) Keep each ephedrine product, phenylpropanolamine product, 16298
or pseudoephedrine product in a secure, locked area in the place 16299
of business of the retailer or terminal distributor or, if the 16300
place of business is a pharmacy, behind the counter, so that no 16301
member of the public may procure or purchase the product without 16302
the direct assistance of a pharmacist or other authorized employee 16303
of the retailer or terminal distributor. 16304

(2) Prior to selling or providing any ephedrine product, 16305
phenylpropanolamine product, or pseudoephedrine product to any 16306
person, determine, by examination of a valid proof of age, that 16307
the purchaser or recipient is eighteen years of age or older. 16308

(C)(1) No retailer or terminal distributor of dangerous drugs 16309
that sells, offers to sell, holds for sale, delivers, or otherwise 16310
provides any ephedrine product, phenylpropanolamine product, or 16311
pseudoephedrine product to the public shall fail to comply with 16312
division (B)(1) of this section. 16313

(2) No retailer or terminal distributor of dangerous drugs 16314
shall sell, offer to sell, hold for sale, deliver, or otherwise 16315
provide any ephedrine product, phenylpropanolamine product, or 16316
pseudoephedrine product to an individual that the retailer or 16317
terminal distributor knows or reasonably should know is under 16318
eighteen years of age. 16319

(D) Whoever violates this section is guilty of "illegal 16320

transactions in an ephedrine, phenylpropanolamine, or 16321
pseudoephedrine product." Illegal transactions in an ephedrine, 16322
phenylpropanolamine, or pseudoephedrine product in violation of 16323
division (A) of this section is a misdemeanor, and the offender 16324
shall be fined not more than three hundred fifty dollars. Except 16325
as otherwise provided in this division, illegal transactions in an 16326
ephedrine, phenylpropanolamine, or pseudoephedrine product in 16327
violation of division (C)(1) or (2) of this section is a minor 16328
misdemeanor. If an offender who commits a violation of division 16329
(C)(1) or (2) of this section previously has been convicted of or 16330
pleaded guilty to a violation of division (A), (C)(1), or (C)(2) 16331
of this section, illegal transactions in an ephedrine, 16332
phenylpropanolamine, or pseudoephedrine product in violation of 16333
division (C)(1) or (2) of this section is a misdemeanor of the 16334
third degree. 16335

Sec. 2927.30. (A) As used in this section: 16336

(1) "Consumer product" means any food or drink that is 16337
consumed or used by humans and any drug, including a drug that may 16338
be provided legally only pursuant to a prescription, that is 16339
intended to be consumed or used by humans. 16340

(2) "Drug," "licensed health professional authorized to 16341
prescribe drugs," "prescription," and "terminal distributor of 16342
dangerous drugs" have the same meanings as in section 4729.01 of 16343
the Revised Code. 16344

(3) "Pharmacist" means a person licensed under Chapter 4729. 16345
of the Revised Code to engage in the practice of pharmacy. 16346

(4) "Pseudoephedrine" means any material, compound, mixture, 16347
or preparation that contains any quantity of pseudoephedrine, any 16348
of its salts, optical isomers, or salts of optical isomers. 16349

(5) "Pseudoephedrine product" means a consumer product 16350

consisting of a single-ingredient preparation of pseudoephedrine 16351
in which pseudoephedrine is the active ingredient. 16352

(6) "Retailer" means a place of business that offers consumer 16353
products for sale to the general public. 16354

(7) "Single-ingredient preparation" means a compound, 16355
mixture, preparation, or substance that contains a single active 16356
ingredient. 16357

(B) No individual shall purchase, receive, or otherwise 16358
acquire more than six grams of any pseudoephedrine product within 16359
a period of thirty days, unless dispensed by a pharmacist pursuant 16360
to a valid prescription issued by a licensed health care 16361
professional authorized to prescribe drugs. 16362

(C)(1) Except as provided in division (C)(2) of this section, 16363
no retailer or terminal distributor of dangerous drugs shall 16364
knowingly sell, offer to sell, hold for sale, deliver, or 16365
otherwise provide to any individual within a thirty-day period an 16366
amount of pseudoephedrine product that is greater than the lesser 16367
of two packages or six grams. 16368

(2) Division (C)(1) of this section does not apply to any 16369
quantity of pseudoephedrine product dispensed by a pharmacist 16370
pursuant to a valid prescription issued by a licensed health 16371
professional authorized to prescribe drugs. 16372

(D)(1) Except as provided in division (D)(2) of this section, 16373
no retailer or terminal distributor of dangerous drugs shall sell, 16374
offer to sell, hold for sale, deliver, or otherwise provide a 16375
pseudoephedrine product to an individual who is under eighteen 16376
years of age. 16377

(2) This division does not apply to any of the following: 16378

(a) A licensed health professional authorized to prescribe 16379
drugs or a pharmacist who dispenses, sells, or otherwise provides 16380

a pseudoephedrine product to an individual under eighteen years of age; 16381
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(b) A parent or guardian of an individual under eighteen years of age who provides a pseudoephedrine product to the individual; 16383
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(c) A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides a pseudoephedrine product to an individual under eighteen years of age. 16386
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(E) No employee of a retailer or terminal distributor of dangerous drugs who is under eighteen years of age shall sell, offer to sell, hold for sale, deliver, or otherwise provide any pseudoephedrine product to any individual. 16390
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Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code. The sentence shall not impose an unnecessary burden on state or local government resources. 16394
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If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also may impose a financial sanction pursuant to section 2929.18 of the 16402
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Revised Code but may not impose any additional sanction or
combination of sanctions under section 2929.16 or 2929.17 of the
Revised Code.

If the offender is being sentenced for a fourth degree felony
OVI offense or for a third degree felony OVI offense, in addition
to the mandatory term of local incarceration or the mandatory
prison term required for the offense by division (G)(1) or (2) of
this section, the court shall impose upon the offender a mandatory
fine in accordance with division (B)(3) of section 2929.18 of the
Revised Code and may impose whichever of the following is
applicable:

(1) For a fourth degree felony OVI offense for which sentence
is imposed under division (G)(1) of this section, an additional
community control sanction or combination of community control
sanctions under section 2929.16 or 2929.17 of the Revised Code. If
the court imposes upon the offender a community control sanction
and the offender violates any condition of the community control
sanction, the court may take any action prescribed in division (B)
of section 2929.15 of the Revised Code relative to the offender,
including imposing a prison term on the offender pursuant to that
division.

(2) For a third or fourth degree felony OVI offense for which
sentence is imposed under division (G)(2) of this section, an
additional prison term as described in division (D)(4) of section
2929.14 of the Revised Code or a community control sanction as
described in division (G)(2) of this section.

(B)(1) Except as provided in division (B)(2), (E), (F), or
(G) of this section, in sentencing an offender for a felony of the
fourth or fifth degree, the sentencing court shall determine
whether any of the following apply:

(a) In committing the offense, the offender caused physical

harm to a person. 16442

(b) In committing the offense, the offender attempted to 16443
cause or made an actual threat of physical harm to a person with a 16444
deadly weapon. 16445

(c) In committing the offense, the offender attempted to 16446
cause or made an actual threat of physical harm to a person, and 16447
the offender previously was convicted of an offense that caused 16448
physical harm to a person. 16449

(d) The offender held a public office or position of trust 16450
and the offense related to that office or position; the offender's 16451
position obliged the offender to prevent the offense or to bring 16452
those committing it to justice; or the offender's professional 16453
reputation or position facilitated the offense or was likely to 16454
influence the future conduct of others. 16455

(e) The offender committed the offense for hire or as part of 16456
an organized criminal activity. 16457

(f) The offense is a sex offense that is a fourth or fifth 16458
degree felony violation of section 2907.03, 2907.04, 2907.05, 16459
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 16460
Revised Code. 16461

(g) The offender at the time of the offense was serving, or 16462
the offender previously had served, a prison term. 16463

(h) The offender committed the offense while under a 16464
community control sanction, while on probation, or while released 16465
from custody on a bond or personal recognizance. 16466

(i) The offender committed the offense while in possession of 16467
a firearm. 16468

(2)(a) If the court makes a finding described in division 16469
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 16470
section and if the court, after considering the factors set forth 16471

in section 2929.12 of the Revised Code, finds that a prison term 16472
is consistent with the purposes and principles of sentencing set 16473
forth in section 2929.11 of the Revised Code and finds that the 16474
offender is not amenable to an available community control 16475
sanction, the court shall impose a prison term upon the offender. 16476

(b) Except as provided in division (E), (F), or (G) of this 16477
section, if the court does not make a finding described in 16478
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 16479
this section and if the court, after considering the factors set 16480
forth in section 2929.12 of the Revised Code, finds that a 16481
community control sanction or combination of community control 16482
sanctions is consistent with the purposes and principles of 16483
sentencing set forth in section 2929.11 of the Revised Code, the 16484
court shall impose a community control sanction or combination of 16485
community control sanctions upon the offender. 16486

(C) Except as provided in division (E), (F), or (G) of this 16487
section, in determining whether to impose a prison term as a 16488
sanction for a felony of the third degree or a felony drug offense 16489
that is a violation of a provision of Chapter 2925. of the Revised 16490
Code and that is specified as being subject to this division for 16491
purposes of sentencing, the sentencing court shall comply with the 16492
purposes and principles of sentencing under section 2929.11 of the 16493
Revised Code and with section 2929.12 of the Revised Code. 16494

(D) Except as provided in division (E) or (F) of this 16495
section, for a felony of the first or second degree and for a 16496
felony drug offense that is a violation of any provision of 16497
Chapter 2925., 3719., or 4729. of the Revised Code for which a 16498
presumption in favor of a prison term is specified as being 16499
applicable, it is presumed that a prison term is necessary in 16500
order to comply with the purposes and principles of sentencing 16501
under section 2929.11 of the Revised Code. Notwithstanding the 16502
presumption established under this division, the sentencing court 16503

may impose a community control sanction or a combination of 16504
community control sanctions instead of a prison term on an 16505
offender for a felony of the first or second degree or for a 16506
felony drug offense that is a violation of any provision of 16507
Chapter 2925., 3719., or 4729. of the Revised Code for which a 16508
presumption in favor of a prison term is specified as being 16509
applicable if it makes both of the following findings: 16510

(1) A community control sanction or a combination of 16511
community control sanctions would adequately punish the offender 16512
and protect the public from future crime, because the applicable 16513
factors under section 2929.12 of the Revised Code indicating a 16514
lesser likelihood of recidivism outweigh the applicable factors 16515
under that section indicating a greater likelihood of recidivism. 16516

(2) A community control sanction or a combination of 16517
community control sanctions would not demean the seriousness of 16518
the offense, because one or more factors under section 2929.12 of 16519
the Revised Code that indicate that the offender's conduct was 16520
less serious than conduct normally constituting the offense are 16521
applicable, and they outweigh the applicable factors under that 16522
section that indicate that the offender's conduct was more serious 16523
than conduct normally constituting the offense. 16524

(E)(1) Except as provided in division (F) of this section, 16525
for any drug offense that is a violation of any provision of 16526
Chapter 2925. of the Revised Code and that is a felony of the 16527
third, fourth, or fifth degree, the applicability of a presumption 16528
under division (D) of this section in favor of a prison term or of 16529
division (B) or (C) of this section in determining whether to 16530
impose a prison term for the offense shall be determined as 16531
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 16532
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 16533
Revised Code, whichever is applicable regarding the violation. 16534

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, or section 2971.03 of the Revised Code, and except as specifically provided in section 2929.20 ~~or~~ 2967.191, or 2967.24 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code, the terms shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the rape;

(3) Gross sexual imposition or sexual battery, if the victim

is under thirteen years of age, if the offender previously was
convicted of or pleaded guilty to rape, the former offense of
felonious sexual penetration, gross sexual imposition, or sexual
battery, and if the victim of the previous offense was under
thirteen years of age;

(4) A felony violation of section 2903.04, 2903.06, 2903.08,
2903.11, 2903.12, or 2903.13 of the Revised Code if the section
requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06,
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or
4729.99 of the Revised Code, whichever is applicable regarding the
violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and
that is not set forth in division (F)(1), (2), (3), or (4) of this
section, if the offender previously was convicted of or pleaded
guilty to aggravated murder, murder, any first or second degree
felony, or an offense under an existing or former law of this
state, another state, or the United States that is or was
substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and that is
listed in division (DD)(1) of section 2929.01 of the Revised Code
if the offender previously was convicted of or pleaded guilty to
any offense that is listed in division (DD)(2)(a)(i) or (ii) of
section 2929.01 of the Revised Code;

(8) Any offense, other than a violation of section 2923.12 of
the Revised Code, that is a felony, if the offender had a firearm
on or about the offender's person or under the offender's control
while committing the felony, with respect to a portion of the
sentence imposed pursuant to division (D)(1)(a) of section 2929.14
of the Revised Code for having the firearm;

(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (D)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor; 16597
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(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree; 16602
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(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator; 16606
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(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction; 16609
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(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (D)(5) of section 2929.14 of the Revised Code; 16614
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(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence imposed pursuant to division (D)(6) of section 2929.14 of the Revised Code. 16619
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(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G)(1)(d) of section 4511.19 of the Revised Code. ~~The court~~ Subject to section 2967.24 of the Revised Code, the term shall not reduce the term be reduced pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to extension under section 2967.11 of the Revised Code, to a period of post-release control under section 2967.28 of the Revised Code, or to any other Revised Code provision that pertains to a prison term except as provided in division (A)(1) of this section.

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years if the

offender also is convicted of or also pleads guilty to a 16660
specification of the type described in section 2941.1413 of the 16661
Revised Code or shall impose upon the offender a mandatory prison 16662
term of sixty days or one hundred twenty days as specified in 16663
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 16664
if the offender has not been convicted of and has not pleaded 16665
guilty to a specification of that type. ~~The court~~ Subject to 16666
section 2967.24 of the Revised Code, the term shall not reduce the 16667
term be reduced pursuant to section 2929.20, 2967.193, or any 16668
other provision of the Revised Code. The offender shall serve the 16669
one-, two-, three-, four-, or five-year mandatory prison term 16670
consecutively to and prior to the prison term imposed for the 16671
underlying offense and consecutively to any other mandatory prison 16672
term imposed in relation to the offense. In no case shall an 16673
offender who once has been sentenced to a mandatory term of local 16674
incarceration pursuant to division (G)(1) of this section for a 16675
fourth degree felony OVI offense be sentenced to another mandatory 16676
term of local incarceration under that division for any violation 16677
of division (A) of section 4511.19 of the Revised Code. In 16678
addition to the mandatory prison term described in division (G)(2) 16679
of this section, the court may sentence the offender to a 16680
community control sanction under section 2929.16 or 2929.17 of the 16681
Revised Code, but the offender shall serve the prison term prior 16682
to serving the community control sanction. The department of 16683
rehabilitation and correction may place an offender sentenced to a 16684
mandatory prison term under this division in an intensive program 16685
prison established pursuant to section 5120.033 of the Revised 16686
Code if the department gave the sentencing judge prior notice of 16687
its intent to place the offender in an intensive program prison 16688
established under that section and if the judge did not notify the 16689
department that the judge disapproved the placement. Upon the 16690
establishment of the initial intensive program prison pursuant to 16691
section 5120.033 of the Revised Code that is privately operated 16692

and managed by a contractor pursuant to a contract entered into 16693
under section 9.06 of the Revised Code, both of the following 16694
apply: 16695

(a) The department of rehabilitation and correction shall 16696
make a reasonable effort to ensure that a sufficient number of 16697
offenders sentenced to a mandatory prison term under this division 16698
are placed in the privately operated and managed prison so that 16699
the privately operated and managed prison has full occupancy. 16700

(b) Unless the privately operated and managed prison has full 16701
occupancy, the department of rehabilitation and correction shall 16702
not place any offender sentenced to a mandatory prison term under 16703
this division in any intensive program prison established pursuant 16704
to section 5120.033 of the Revised Code other than the privately 16705
operated and managed prison. 16706

(H) If an offender is being sentenced for a sexually oriented 16707
offense committed on or after January 1, 1997, the judge shall 16708
require the offender to submit to a DNA specimen collection 16709
procedure pursuant to section 2901.07 of the Revised Code if 16710
either of the following applies: 16711

(1) The offense was a violent sex offense or a designated 16712
homicide, assault, or kidnapping offense and, in relation to that 16713
offense, the offender was adjudicated a sexually violent predator. 16714

(2) The judge imposing sentence for the sexually oriented 16715
offense determines pursuant to division (B) of section 2950.09 of 16716
the Revised Code that the offender is a sexual predator. 16717

(I) If an offender is being sentenced for a sexually oriented 16718
offense that is not a registration-exempt sexually oriented 16719
offense or for a child-victim oriented offense committed on or 16720
after January 1, 1997, the judge shall include in the sentence a 16721
summary of the offender's duties imposed under sections 2950.04, 16722
2950.041, 2950.05, and 2950.06 of the Revised Code and the 16723

duration of the duties. The judge shall inform the offender, at 16724
the time of sentencing, of those duties and of their duration and, 16725
if required under division (A)(2) of section 2950.03 of the 16726
Revised Code, shall perform the duties specified in that section. 16727

(J)(1) Except as provided in division (J)(2) of this section, 16728
when considering sentencing factors under this section in relation 16729
to an offender who is convicted of or pleads guilty to an attempt 16730
to commit an offense in violation of section 2923.02 of the 16731
Revised Code, the sentencing court shall consider the factors 16732
applicable to the felony category of the violation of section 16733
2923.02 of the Revised Code instead of the factors applicable to 16734
the felony category of the offense attempted. 16735

(2) When considering sentencing factors under this section in 16736
relation to an offender who is convicted of or pleads guilty to an 16737
attempt to commit a drug abuse offense for which the penalty is 16738
determined by the amount or number of unit doses of the controlled 16739
substance involved in the drug abuse offense, the sentencing court 16740
shall consider the factors applicable to the felony category that 16741
the drug abuse offense attempted would be if that drug abuse 16742
offense had been committed and had involved an amount or number of 16743
unit doses of the controlled substance that is within the next 16744
lower range of controlled substance amounts than was involved in 16745
the attempt. 16746

(K) As used in this section, "drug abuse offense" has the 16747
same meaning as in section 2925.01 of the Revised Code. 16748

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 16749
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and 16750
except in relation to an offense for which a sentence of death or 16751
life imprisonment is to be imposed, if the court imposing a 16752
sentence upon an offender for a felony elects or is required to 16753
impose a prison term on the offender pursuant to this chapter, the 16754

court shall impose a definite prison term that shall be one of the following: 16755
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(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years. 16757
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(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years. 16759
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(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years. 16761
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(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months. 16763
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(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months. 16766
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(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless one or more of the following applies: 16768
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(1) The offender was serving a prison term at the time of the offense, or the offender previously had served a prison term. 16776
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(2) The court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others. 16778
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(C) Except as provided in division (G) of this section or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term 16782
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authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under

division (D)(1)(a) of this section, subject to section 2967.24 of 16816
the Revised Code, the prison term shall not be reduced pursuant to 16817
section 2929.20, section 2967.193, or any other provision of 16818
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16819
not impose more than one prison term on an offender under division 16820
(D)(1)(a) of this section for felonies committed as part of the 16821
same act or transaction. 16822

(c) Except as provided in division (D)(1)(e) of this section, 16823
if an offender who is convicted of or pleads guilty to a violation 16824
of section 2923.161 of the Revised Code or to a felony that 16825
includes, as an essential element, purposely or knowingly causing 16826
or attempting to cause the death of or physical harm to another, 16827
also is convicted of or pleads guilty to a specification of the 16828
type described in section 2941.146 of the Revised Code that 16829
charges the offender with committing the offense by discharging a 16830
firearm from a motor vehicle other than a manufactured home, the 16831
court, after imposing a prison term on the offender for the 16832
violation of section 2923.161 of the Revised Code or for the other 16833
felony offense under division (A), (D)(2), or (D)(3) of this 16834
section, shall impose an additional prison term of five years upon 16835
the offender that, subject to section 2967.24 of the Revised Code, 16836
shall not be reduced pursuant to section 2929.20, section 16837
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 16838
of the Revised Code. A court shall not impose more than one 16839
additional prison term on an offender under division (D)(1)(c) of 16840
this section for felonies committed as part of the same act or 16841
transaction. If a court imposes an additional prison term on an 16842
offender under division (D)(1)(c) of this section relative to an 16843
offense, the court also shall impose a prison term under division 16844
(D)(1)(a) of this section relative to the same offense, provided 16845
the criteria specified in that division for imposing an additional 16846
prison term are satisfied relative to the offender and the 16847

offense. 16848

(d) If an offender who is convicted of or pleads guilty to an 16849
offense of violence that is a felony also is convicted of or 16850
pleads guilty to a specification of the type described in section 16851
2941.1411 of the Revised Code that charges the offender with 16852
wearing or carrying body armor while committing the felony offense 16853
of violence, the court shall impose on the offender a prison term 16854
of two years. The Subject to section 2967.24 of the Revised Code, 16855
the prison term so imposed shall not be reduced pursuant to 16856
section 2929.20, section 2967.193, or any other provision of 16857
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 16858
not impose more than one prison term on an offender under division 16859
(D)(1)(d) of this section for felonies committed as part of the 16860
same act or transaction. If a court imposes an additional prison 16861
term under division (D)(1)(a) or (c) of this section, the court is 16862
not precluded from imposing an additional prison term under 16863
division (D)(1)(d) of this section. 16864

(e) The court shall not impose any of the prison terms 16865
described in division (D)(1)(a) of this section or any of the 16866
additional prison terms described in division (D)(1)(c) of this 16867
section upon an offender for a violation of section 2923.12 or 16868
2923.123 of the Revised Code. The court shall not impose any of 16869
the prison terms described in division (D)(1)(a) of this section 16870
or any of the additional prison terms described in division 16871
(D)(1)(c) of this section upon an offender for a violation of 16872
section 2923.13 of the Revised Code unless all of the following 16873
apply: 16874

(i) The offender previously has been convicted of aggravated 16875
murder, murder, or any felony of the first or second degree. 16876

(ii) Less than five years have passed since the offender was 16877
released from prison or post-release control, whichever is later, 16878
for the prior offense. 16879

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that, subject to section 2967.24 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(f) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.

(2)(a) If an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender, the court shall impose a prison term from the range of terms authorized for the offense under division (A) of this section that may be the longest term in the range and that, subject to section 2967.24 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If the court finds that the repeat violent

offender, in committing the offense, caused any physical harm that 16912
carried a substantial risk of death to a person or that involved 16913
substantial permanent incapacity or substantial permanent 16914
disfigurement of a person, the court shall impose the longest 16915
prison term from the range of terms authorized for the offense 16916
under division (A) of this section. 16917

(b) If the court imposing a prison term on a repeat violent 16918
offender imposes the longest prison term from the range of terms 16919
authorized for the offense under division (A) of this section, the 16920
court may impose on the offender an additional definite prison 16921
term of one, two, three, four, five, six, seven, eight, nine, or 16922
ten years if the court finds that both of the following apply with 16923
respect to the prison terms imposed on the offender pursuant to 16924
division (D)(2)(a) of this section and, if applicable, divisions 16925
(D)(1) and (3) of this section: 16926

(i) The terms so imposed are inadequate to punish the 16927
offender and protect the public from future crime, because the 16928
applicable factors under section 2929.12 of the Revised Code 16929
indicating a greater likelihood of recidivism outweigh the 16930
applicable factors under that section indicating a lesser 16931
likelihood of recidivism. 16932

(ii) The terms so imposed are demeaning to the seriousness of 16933
the offense, because one or more of the factors under section 16934
2929.12 of the Revised Code indicating that the offender's conduct 16935
is more serious than conduct normally constituting the offense are 16936
present, and they outweigh the applicable factors under that 16937
section indicating that the offender's conduct is less serious 16938
than conduct normally constituting the offense. 16939

(3)(a) Except when an offender commits a violation of section 16940
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 16941
the violation is life imprisonment or commits a violation of 16942
section 2903.02 of the Revised Code, if the offender commits a 16943

violation of section 2925.03 or 2925.11 of the Revised Code and 16944
that section classifies the offender as a major drug offender and 16945
requires the imposition of a ten-year prison term on the offender, 16946
if the offender commits a felony violation of section 2925.02, 16947
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 16948
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 16949
division (C) of section 4729.51, or division (J) of section 16950
4729.54 of the Revised Code that includes the sale, offer to sell, 16951
or possession of a schedule I or II controlled substance, with the 16952
exception of marihuana, and the court imposing sentence upon the 16953
offender finds that the offender is guilty of a specification of 16954
the type described in section 2941.1410 of the Revised Code 16955
charging that the offender is a major drug offender, if the court 16956
imposing sentence upon an offender for a felony finds that the 16957
offender is guilty of corrupt activity with the most serious 16958
offense in the pattern of corrupt activity being a felony of the 16959
first degree, or if the offender is guilty of an attempted 16960
violation of section 2907.02 of the Revised Code and, had the 16961
offender completed the violation of section 2907.02 of the Revised 16962
Code that was attempted, the offender would have been subject to a 16963
sentence of life imprisonment or life imprisonment without parole 16964
for the violation of section 2907.02 of the Revised Code, the 16965
court shall impose upon the offender for the felony violation a 16966
ten-year prison term that, subject to section 2967.24 of the 16967
Revised Code, cannot be reduced pursuant to section 2929.20 or 16968
Chapter 2967. or 5120. of the Revised Code. 16969

(b) The court imposing a prison term on an offender under 16970
division (D)(3)(a) of this section may impose an additional prison 16971
term of one, two, three, four, five, six, seven, eight, nine, or 16972
ten years, if the court, with respect to the term imposed under 16973
division (D)(3)(a) of this section and, if applicable, divisions 16974
(D)(1) and (2) of this section, makes both of the findings set 16975

forth in divisions (D)(2)(b)(i) and (ii) of this section. 16976

(4) If the offender is being sentenced for a third or fourth 16977
degree felony OVI offense under division (G)(2) of section 2929.13 16978
of the Revised Code, the sentencing court shall impose upon the 16979
offender a mandatory prison term in accordance with that division. 16980
In addition to the mandatory prison term, if the offender is being 16981
sentenced for a fourth degree felony OVI offense, the court, 16982
notwithstanding division (A)(4) of this section, may sentence the 16983
offender to a definite prison term of not less than six months and 16984
not more than thirty months, and if the offender is being 16985
sentenced for a third degree felony OVI offense, the sentencing 16986
court may sentence the offender to an additional prison term of 16987
any duration specified in division (A)(3) of this section. In 16988
either case, the additional prison term imposed shall be reduced 16989
by the sixty or one hundred twenty days imposed upon the offender 16990
as the mandatory prison term. The total of the additional prison 16991
term imposed under division (D)(4) of this section plus the sixty 16992
or one hundred twenty days imposed as the mandatory prison term 16993
shall equal a definite term in the range of six months to thirty 16994
months for a fourth degree felony OVI offense and shall equal one 16995
of the authorized prison terms specified in division (A)(3) of 16996
this section for a third degree felony OVI offense. If the court 16997
imposes an additional prison term under division (D)(4) of this 16998
section, the offender shall serve the additional prison term after 16999
the offender has served the mandatory prison term required for the 17000
offense. In addition to the mandatory prison term or mandatory and 17001
additional prison term imposed as described in division (D)(4) of 17002
this section, the court also may sentence the offender to a 17003
community control sanction under section 2929.16 or 2929.17 of the 17004
Revised Code, but the offender shall serve all of the prison terms 17005
so imposed prior to serving the community control sanction. 17006

If the offender is being sentenced for a fourth degree felony 17007

OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section. 17008
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(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, subject to section 2967.24 of the Revised Code, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act. 17012
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(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, subject to section 2967.24 of the Revised Code, the prison term shall not be reduced 17027
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pursuant to section 2929.20, section 2967.193, or any other 17040
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 17041
court shall not impose more than one prison term on an offender 17042
under division (D)(6) of this section for felonies committed as 17043
part of the same act. 17044

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 17045
mandatory prison term is imposed upon an offender pursuant to 17046
division (D)(1)(a) of this section for having a firearm on or 17047
about the offender's person or under the offender's control while 17048
committing a felony, if a mandatory prison term is imposed upon an 17049
offender pursuant to division (D)(1)(c) of this section for 17050
committing a felony specified in that division by discharging a 17051
firearm from a motor vehicle, or if both types of mandatory prison 17052
terms are imposed, the offender shall serve any mandatory prison 17053
term imposed under either division consecutively to any other 17054
mandatory prison term imposed under either division or under 17055
division (D)(1)(d) of this section, consecutively to and prior to 17056
any prison term imposed for the underlying felony pursuant to 17057
division (A), (D)(2), or (D)(3) of this section or any other 17058
section of the Revised Code, and consecutively to any other prison 17059
term or mandatory prison term previously or subsequently imposed 17060
upon the offender. 17061

(b) If a mandatory prison term is imposed upon an offender 17062
pursuant to division (D)(1)(d) of this section for wearing or 17063
carrying body armor while committing an offense of violence that 17064
is a felony, the offender shall serve the mandatory term so 17065
imposed consecutively to any other mandatory prison term imposed 17066
under that division or under division (D)(1)(a) or (c) of this 17067
section, consecutively to and prior to any prison term imposed for 17068
the underlying felony under division (A), (D)(2), or (D)(3) of 17069
this section or any other section of the Revised Code, and 17070
consecutively to any other prison term or mandatory prison term 17071

previously or subsequently imposed upon the offender. 17072

(c) If a mandatory prison term is imposed upon an offender 17073
pursuant to division (D)(1)(f) of this section, the offender shall 17074
serve the mandatory prison term so imposed consecutively to and 17075
prior to any prison term imposed for the underlying felony under 17076
division (A), (D)(2), or (D)(3) of this section or any other 17077
section of the Revised Code, and consecutively to any other prison 17078
term or mandatory prison term previously or subsequently imposed 17079
upon the offender. 17080

(2) If an offender who is an inmate in a jail, prison, or 17081
other residential detention facility violates section 2917.02, 17082
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 17083
who is under detention at a detention facility commits a felony 17084
violation of section 2923.131 of the Revised Code, or if an 17085
offender who is an inmate in a jail, prison, or other residential 17086
detention facility or is under detention at a detention facility 17087
commits another felony while the offender is an escapee in 17088
violation of section 2921.34 of the Revised Code, any prison term 17089
imposed upon the offender for one of those violations shall be 17090
served by the offender consecutively to the prison term or term of 17091
imprisonment the offender was serving when the offender committed 17092
that offense and to any other prison term previously or 17093
subsequently imposed upon the offender. 17094

(3) If a prison term is imposed for a violation of division 17095
(B) of section 2911.01 of the Revised Code, a violation of 17096
division (A) of section 2913.02 of the Revised Code in which the 17097
stolen property is a firearm or dangerous ordnance, or a felony 17098
violation of division (B) of section 2921.331 of the Revised Code, 17099
the offender shall serve that prison term consecutively to any 17100
other prison term or mandatory prison term previously or 17101
subsequently imposed upon the offender. 17102

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section. If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (D)(6) of this section in

relation to the same violation, the offender shall serve the 17134
mandatory prison term imposed pursuant to division (D)(5) of this 17135
section consecutively to and prior to the mandatory prison term 17136
imposed pursuant to division (D)(6) of this section and 17137
consecutively to and prior to any prison term imposed for the 17138
underlying violation of division (A)(1) or (2) of section 2903.06 17139
of the Revised Code pursuant to division (A) of this section. 17140

(6) When consecutive prison terms are imposed pursuant to 17141
division (E)(1), (2), (3), (4), or (5) of this section, the term 17142
to be served is the aggregate of all of the terms so imposed. 17143

(F) If a court imposes a prison term of a type described in 17144
division (B) of section 2967.28 of the Revised Code, it shall 17145
include in the sentence a requirement that the offender be subject 17146
to a period of post-release control after the offender's release 17147
from imprisonment, in accordance with that division. If a court 17148
imposes a prison term of a type described in division (C) of that 17149
section, it shall include in the sentence a requirement that the 17150
offender be subject to a period of post-release control after the 17151
offender's release from imprisonment, in accordance with that 17152
division, if the parole board determines that a period of 17153
post-release control is necessary. 17154

(G) If a person is convicted of or pleads guilty to a violent 17155
sex offense or a designated homicide, assault, or kidnapping 17156
offense and, in relation to that offense, the offender is 17157
adjudicated a sexually violent predator, the court shall impose 17158
sentence upon the offender in accordance with section 2971.03 of 17159
the Revised Code, and Chapter 2971. of the Revised Code applies 17160
regarding the prison term or term of life imprisonment without 17161
parole imposed upon the offender and the service of that term of 17162
imprisonment. 17163

(H) If a person who has been convicted of or pleaded guilty 17164

to a felony is sentenced to a prison term or term of imprisonment 17165
under this section, sections 2929.02 to 2929.06 of the Revised 17166
Code, section 2971.03 of the Revised Code, or any other provision 17167
of law, section 5120.163 of the Revised Code applies regarding the 17168
person while the person is confined in a state correctional 17169
institution. 17170

(I) If an offender who is convicted of or pleads guilty to a 17171
felony that is an offense of violence also is convicted of or 17172
pleads guilty to a specification of the type described in section 17173
2941.142 of the Revised Code that charges the offender with having 17174
committed the felony while participating in a criminal gang, the 17175
court shall impose upon the offender an additional prison term of 17176
one, two, or three years. 17177

(J) If an offender who is convicted of or pleads guilty to 17178
aggravated murder, murder, or a felony of the first, second, or 17179
third degree that is an offense of violence also is convicted of 17180
or pleads guilty to a specification of the type described in 17181
section 2941.143 of the Revised Code that charges the offender 17182
with having committed the offense in a school safety zone or 17183
towards a person in a school safety zone, the court shall impose 17184
upon the offender an additional prison term of two years. The 17185
offender shall serve the additional two years consecutively to and 17186
prior to the prison term imposed for the underlying offense. 17187

(K) At the time of sentencing, the court may recommend the 17188
offender for placement in a program of shock incarceration under 17189
section 5120.031 of the Revised Code or for placement in an 17190
intensive program prison under section 5120.032 of the Revised 17191
Code, disapprove placement of the offender in a program of shock 17192
incarceration or an intensive program prison of that nature, or 17193
make no recommendation on placement of the offender. In no case 17194
shall the department of rehabilitation and correction place the 17195
offender in a program or prison of that nature unless the 17196

department determines as specified in section 5120.031 or 5120.032 17197
of the Revised Code, whichever is applicable, that the offender is 17198
eligible for the placement. 17199

If the court disapproves placement of the offender in a 17200
program or prison of that nature, the department of rehabilitation 17201
and correction shall not place the offender in any program of 17202
shock incarceration or intensive program prison. 17203

If the court recommends placement of the offender in a 17204
program of shock incarceration or in an intensive program prison, 17205
and if the offender is subsequently placed in the recommended 17206
program or prison, the department shall notify the court of the 17207
placement and shall include with the notice a brief description of 17208
the placement. 17209

If the court recommends placement of the offender in a 17210
program of shock incarceration or in an intensive program prison 17211
and the department does not subsequently place the offender in the 17212
recommended program or prison, the department shall send a notice 17213
to the court indicating why the offender was not placed in the 17214
recommended program or prison. 17215

If the court does not make a recommendation under this 17216
division with respect to an offender and if the department 17217
determines as specified in section 5120.031 or 5120.032 of the 17218
Revised Code, whichever is applicable, that the offender is 17219
eligible for placement in a program or prison of that nature, the 17220
department shall screen the offender and determine if there is an 17221
available program of shock incarceration or an intensive program 17222
prison for which the offender is suited. If there is an available 17223
program of shock incarceration or an intensive program prison for 17224
which the offender is suited, the department shall notify the 17225
court of the proposed placement of the offender as specified in 17226
section 5120.031 or 5120.032 of the Revised Code and shall include 17227

with the notice a brief description of the placement. The court 17228
shall have ten days from receipt of the notice to disapprove the 17229
placement. 17230

Sec. 2967.13. (A) Except as provided in division (G) of this 17231
section, a prisoner serving a sentence of imprisonment for life 17232
for an offense committed on or after July 1, 1996, is not entitled 17233
to any earned credit under section 2967.193 of the Revised Code 17234
and becomes eligible for parole as follows: 17235

(1) If a sentence of imprisonment for life was imposed for 17236
the offense of murder, at the expiration of the prisoner's minimum 17237
term; 17238

(2) If a sentence of imprisonment for life with parole 17239
eligibility after serving twenty years of imprisonment was imposed 17240
pursuant to section 2929.022 or 2929.03 of the Revised Code, after 17241
serving a term of twenty years; 17242

(3) If a sentence of imprisonment for life with parole 17243
eligibility after serving twenty-five full years of imprisonment 17244
was imposed pursuant to section 2929.022 or 2929.03 of the Revised 17245
Code, after serving a term of twenty-five full years; 17246

(4) If a sentence of imprisonment for life with parole 17247
eligibility after serving thirty full years of imprisonment was 17248
imposed pursuant to section 2929.022 or 2929.03 of the Revised 17249
Code, after serving a term of thirty full years; 17250

(5) If a sentence of imprisonment for life was imposed for 17251
rape, after serving a term of ten full years' imprisonment; 17252

(6) If a sentence of imprisonment for life with parole 17253
eligibility after serving fifteen years of imprisonment was 17254
imposed for a violation of section 2927.24 of the Revised Code, 17255
after serving a term of fifteen years. 17256

(B) Except as provided in division (G) of this section, a 17257

prisoner serving a sentence of imprisonment for life with parole 17258
eligibility after serving twenty years of imprisonment or a 17259
sentence of imprisonment for life with parole eligibility after 17260
serving twenty-five full years or thirty full years of 17261
imprisonment imposed pursuant to section 2929.022 or 2929.03 of 17262
the Revised Code for an offense committed on or after July 1, 17263
1996, consecutively to any other term of imprisonment, becomes 17264
eligible for parole after serving twenty years, twenty full years, 17265
or thirty full years, as applicable, as to each such sentence of 17266
life imprisonment, which shall not be reduced for earned credits 17267
under section 2967.193 of the Revised Code, plus the term or terms 17268
of the other sentences consecutively imposed or, if one of the 17269
other sentences is another type of life sentence with parole 17270
eligibility, the number of years before parole eligibility for 17271
that sentence. 17272

(C) Except as provided in division (G) of this section, a 17273
prisoner serving consecutively two or more sentences in which an 17274
indefinite term of imprisonment is imposed becomes eligible for 17275
parole upon the expiration of the aggregate of the minimum terms 17276
of the sentences. 17277

(D) Except as provided in division (G) of this section, a 17278
prisoner serving a term of imprisonment who is described in 17279
division (A) of section 2967.021 of the Revised Code becomes 17280
eligible for parole as described in that division or, if the 17281
prisoner is serving a definite term of imprisonment, shall be 17282
released as described in that division. 17283

(E) A prisoner serving a sentence of life imprisonment 17284
without parole imposed pursuant to section 2907.02 or section 17285
2929.03 or 2929.06 of the Revised Code is not eligible for parole 17286
and, subject to section 2967.24 of the Revised Code, shall be 17287
imprisoned until death. 17288

(F) A prisoner serving a stated prison term shall be released 17289
in accordance with section 2967.28 of the Revised Code. 17290

(G) A prisoner serving a prison term or term of life 17291
imprisonment without parole imposed pursuant to section 2971.03 of 17292
the Revised Code never becomes eligible for parole during that 17293
term of imprisonment. 17294

Sec. 2967.24. (A) There is hereby established within the 17295
office of the governor the medical hardship prisoner release 17296
commission, consisting of three members appointed by the governor. 17297
One member shall be a retired judge of a court of record of this 17298
state, one member shall be a member of the parole board or a staff 17299
member of the parole board, and one member shall be a physician. 17300
The governor shall make initial appointments to the commission not 17301
later than ninety days after the effective date of this section. 17302
The governor shall oversee the operation of the commission. 17303

Of the initial appointments to the commission, the member who 17304
is a retired judge shall be appointed for a term ending on 17305
December 31, 2008, the member who is a member or staff member of 17306
the parole board shall be appointed for a term ending on December 17307
31, 2007, and the member who is a physician shall be appointed for 17308
a term ending on December 31, 2006. Thereafter, terms of office of 17309
all the members shall be three years, with each term ending on the 17310
same day of the same month as did the term that it succeeds. 17311
Members may be reappointed. Any vacancy on the commission shall be 17312
filled in the same manner provided for the original appointment. A 17313
member appointed to fill a vacancy occurring prior to the 17314
expiration of the term for which that member's predecessor was 17315
appointed shall hold office as a member for the remainder of the 17316
predecessor's term. A member shall continue in office subsequent 17317
to the expiration of that member's term until that member's 17318
successor takes office or until a period of sixty days has 17319

elapsed, whichever occurs first.

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(B) The medical hardship prisoner release commission shall meet within two weeks after all members have been appointed and shall organize as necessary. The commission shall select a chairperson, a vice-chairperson, and any other necessary officers and adopt rules to govern its proceedings. Thereafter, the commission shall meet as often as is necessary to perform its functions and duties set forth in division (C) of this section and shall meet otherwise upon the call of the chairperson. Two members of the commission constitute a quorum, and the votes of a majority of the quorum present shall be required to validate any action of the commission. All business of the commission shall be conducted in public meetings.

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The members of the commission shall serve without compensation, but each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties on the commission. In the absence of the chairperson, the vice-chairperson shall perform the duties of the chairperson.

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(C) The director of rehabilitation and correction may file a written request with the medical hardship prisoner release commission that requests that the commission approve the release from imprisonment of a specified prisoner confined in a state correctional institution, other than a prisoner who is confined in the institution under a sentence of death, because of a medical hardship of the prisoner that is one of the medical hardships for which prisoners are eligible for potential release under the rules adopted by the department of rehabilitation and correction under division (E) of this section. The request shall identify the prisoner, the prisoner's medical hardship, the offense or offenses for which the prisoner is confined in the institution, the total length of the prisoner's sentence, and the remaining length of

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that sentence. The department shall provide the commission with 17352
any other materials or information the commission requests that is 17353
relevant to the request for the medical hardship release from 17354
imprisonment. 17355

Upon receipt of a request from the director of rehabilitation 17356
and correction pursuant to this division, the commission promptly 17357
shall review the request and all other materials and information 17358
provided by the department and promptly shall determine whether it 17359
believes the specified prisoner should be granted a medical 17360
hardship release and whether the director's request should be 17361
approved or denied. Upon making its determinations, the commission 17362
promptly shall notify the director of rehabilitation and 17363
correction in writing of the determinations. If the commission 17364
approves the director's request, the department may grant the 17365
prisoner a medical hardship release from imprisonment. If the 17366
commission denies the director's request, the department shall not 17367
grant the prisoner a medical hardship release from imprisonment 17368
based on that request. If the commission denies the director's 17369
request, at any time after the denial, the director may file a 17370
subsequent request pursuant to this section for a medical hardship 17371
release for the prisoner, and the commission shall consider that 17372
request in accordance with this section. In no case shall a 17373
prisoner who is confined in a state correctional institution under 17374
a sentence of death be granted a medical hardship release from 17375
imprisonment pursuant to this section. 17376

(D) If the department of rehabilitation and correction grants 17377
a medical hardship release to a prisoner pursuant to this section, 17378
the department shall release the prisoner from imprisonment as if 17379
the prisoner's stated prison term had expired, and the prisoner is 17380
subject to a period of post-release control of up to three years 17381
after the prisoner's release from imprisonment. Before the 17382
department releases the prisoner from imprisonment, the department 17383

shall impose upon the prisoner one or more post-release control 17384
sanctions to apply during the prisoner's period of post-release 17385
control. The department shall impose the sanction or sanctions in 17386
accordance with division (D)(1) of section 2967.28 of the Revised 17387
Code, and divisions (D)(2) and (F) of that section apply to the 17388
prisoner after the prisoner's release from imprisonment and during 17389
the period of post-release control. When the prisoner has 17390
faithfully performed the conditions and obligations of the 17391
inmate's post-release control sanctions and has obeyed the rules 17392
and regulations adopted by the adult parole authority that apply 17393
to the released prisoner or has the period of post-release control 17394
terminated by a court pursuant to section 2929.141 of the Revised 17395
Code, division (B) of section 2967.16 of the Revised Code applies 17396
regarding the prisoner. 17397

(E)(1) The department of rehabilitation and correction shall 17398
specify by rule adopted under Chapter 119. of the Revised Code the 17399
medical hardships for which prisoners are eligible for potential 17400
release from imprisonment pursuant to this section. 17401

(2) Except as otherwise provided in this division, this 17402
section applies to all prisoners who are confined in a state 17403
correctional institution and who are eligible for potential 17404
release for a medical hardship under the rules adopted under 17405
division (E)(1) of this section, including prisoners serving a 17406
term of life imprisonment without parole and prisoners serving a 17407
mandatory prison term. This section does not apply to any prisoner 17408
who is confined in a state correctional institution under a 17409
sentence of death, and no medical hardship release from 17410
imprisonment shall be granted under this section to any prisoner 17411
who is so confined. 17412

(F) The procedures for medical hardship release of prisoners 17413
set forth in this section are separate from, and independent of, 17414
the procedures for parole of dying prisoners under section 2967.05 17415

of the Revised Code. 17416

(G) As used in this section, "physician" means a person who 17417
is authorized under Chapter 4731. of the Revised Code to practice 17418
medicine and surgery, osteopathic medicine and surgery, or a 17419
limited branch of medicine. 17420

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the 17421
Revised Code, as used in this section, "agency" does not include a 17422
public children services agency. 17423

(B) An agency or attorney, whichever arranges a minor's 17424
adoption, shall file with the court a preliminary estimate 17425
accounting not later than the time the adoption petition for the 17426
minor is filed with the court. The agency or attorney, whichever 17427
arranges the adoption, also shall file a final accounting with the 17428
court before a final decree of adoption is issued or an 17429
interlocutory order of adoption is finalized for the minor. The 17430
agency or attorney shall complete and file accountings in a manner 17431
acceptable to the court. 17432

An accounting shall specify all disbursements of anything of 17433
value the petitioner, a person on the petitioner's behalf, and the 17434
agency or attorney made and has agreed to make in connection with 17435
the minor's permanent surrender under division (B) of section 17436
5103.15 of the Revised Code, placement under section 5103.16 of 17437
the Revised Code, and adoption under this chapter. The agency or 17438
attorney shall include in an accounting an itemization of each 17439
expense listed in division (C) of this section. The itemization of 17440
the expenses specified in divisions (C)(3) and (4) of this section 17441
shall show the amount the agency or attorney charged or is going 17442
to charge for the services and the actual cost to the agency or 17443
attorney of providing the services. An accounting shall indicate 17444
whether any expenses listed in division (C) of this section do not 17445
apply to the adoption proceeding for which the accounting is 17446

filed. 17447

The agency or attorney shall include with a preliminary 17448
estimate accounting and a final accounting a written statement 17449
signed by the petitioner that the petitioner has reviewed the 17450
accounting and attests to its accuracy. 17451

(C) No petitioner, person acting on a petitioner's behalf, or 17452
agency or attorney shall make or agree to make any disbursements 17453
in connection with the minor's permanent surrender, placement, or 17454
adoption other than for the following: 17455

(1) Physician expenses incurred on behalf of the birth mother 17456
or minor in connection with prenatal care, delivery, and 17457
confinement prior to or following the minor's birth; 17458

(2) Hospital or other medical facility expenses incurred on 17459
behalf of the birth mother or minor in connection with the minor's 17460
birth; 17461

(3) Expenses charged by the attorney arranging the adoption 17462
for providing legal services in connection with the placement and 17463
adoption, including expenses incurred by the attorney pursuant to 17464
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the 17465
Revised Code; 17466

(4) Expenses charged by the agency arranging the adoption for 17467
providing services in connection with the permanent surrender and 17468
adoption, including the agency's application fee and the expenses 17469
incurred by the agency pursuant to sections 3107.031, 3107.09, 17470
3107.12, 5103.151, and 5103.152 of the Revised Code; 17471

(5) Temporary costs of routine maintenance and medical care 17472
for a minor required under section 5103.16 of the Revised Code if 17473
the person seeking to adopt the minor refuses to accept placement 17474
of the minor; 17475

(6) Guardian ad litem fees incurred on behalf of the minor in 17476

any court proceedings; 17477

(7) Foster care expenses incurred in connection with any 17478
temporary care and maintenance of the minor; 17479

(8) Court expenses incurred in connection with the minor's 17480
permanent surrender, placement, and adoption. 17481

(D) If a court determines from an accounting that an amount 17482
that is going to be disbursed for an expense listed in division 17483
(C) of this section is unreasonable, the court may order a 17484
reduction in the amount to be disbursed. If a court determines 17485
from an accounting that an unreasonable amount was disbursed for 17486
an expense listed in division (C) of this section, the court may 17487
order the person who received the disbursement to refund to the 17488
person who made the disbursement an amount the court orders. 17489

If a court determines from an accounting that a disbursement 17490
for an expense not permitted by division (C) of this section is 17491
going to be made, the court may issue an injunction prohibiting 17492
the disbursement. If a court determines from an accounting that a 17493
disbursement for an expense not permitted by division (C) of this 17494
section was made, the court may order the person who received the 17495
disbursement to return it to the person who made the disbursement. 17496

If a court determines that a final accounting does not 17497
completely report all the disbursements that are going to be made 17498
or have been made in connection with the minor's permanent 17499
surrender, placement, and adoption, the court shall order the 17500
agency or attorney to file with the court an accounting that 17501
completely reports all such disbursements. 17502

The agency or attorney shall file the final accounting with 17503
the court not later than ten days prior to the date scheduled for 17504
the final hearing on the adoption. The court may not issue a final 17505
decree of adoption or finalize an interlocutory order of adoption 17506
of a minor until at least ten days after the agency or attorney 17507

files the final accounting.

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~~(E) At the conclusion of each adoption proceeding, the court shall prepare a summary of the proceeding, and on or before the tenth day of each month, send copies of the summaries for all proceedings concluded during the preceding calendar month to the department of job and family services. The summary shall contain:~~

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~~(1) A notation of the nature and approximate value or amount of anything paid in connection with the proceeding, compiled from the final accounting required by division (B) of this section and indicating the category of division (C) of this section to which any payment relates;~~

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~~(2) If the court has not issued a decree because of the requirements of division (D) of this section, a notation of that fact and a statement of the reason for refusing to issue the decree, related to the financial data summarized under division (E)(1) of this section;~~

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~~(3) If the adoption was arranged by an attorney, a notation of that fact.~~

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~~The summary shall contain no information identifying by name any party to the proceeding or any other person, but may contain additional narrative material that the court considers useful to an analysis of the summary.~~

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~~(F) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor.~~

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Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement

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agency of the county in which the child resides if the child's 17538
mother is a recipient of public assistance or of services under 17539
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17540
U.S.C.A. 651, as amended, or the alleged father's personal 17541
representative. 17542

(B) An agreement does not bar an action under this section. 17543

(C) If an action under this section is brought before the 17544
birth of the child and if the action is contested, all 17545
proceedings, except service of process and the taking of 17546
depositions to perpetuate testimony, may be stayed until after the 17547
birth. 17548

(D) A recipient of public assistance or of services under 17549
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 17550
U.S.C.A. 651, as amended, shall cooperate with the child support 17551
enforcement agency of the county in which a child resides to 17552
obtain an administrative determination pursuant to sections 17553
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 17554
determination pursuant to sections 3111.01 to 3111.18 of the 17555
Revised Code, of the existence or nonexistence of a parent and 17556
child relationship between the father and the child. If the 17557
recipient fails to cooperate, the agency may commence an action to 17558
determine the existence or nonexistence of a parent and child 17559
relationship between the father and the child pursuant to sections 17560
3111.01 to 3111.18 of the Revised Code. 17561

(E) As used in this section, "public assistance" means 17562
medical assistance under Chapter 5111. of the Revised Code, 17563
assistance under Chapter 5107. of the Revised Code, or disability 17564
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 17565
~~disability medical assistance under Chapter 5115. of the Revised~~ 17566
~~Code.~~ 17567

Sec. 3119.54. If either party to a child support order issued 17568
in accordance with section 3119.30 of the Revised Code is eligible 17569
for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 17570
Code and the other party has obtained health insurance coverage, 17571
the party eligible for medical assistance shall notify any 17572
physician, hospital, or other provider of medical services for 17573
which medical assistance is available of the name and address of 17574
the other party's insurer and of the number of the other party's 17575
health insurance or health care policy, contract, or plan. Any 17576
physician, hospital, or other provider of medical services for 17577
which medical assistance is available under Chapter 5111. ~~or 5115.~~ 17578
of the Revised Code who is notified under this division of the 17579
existence of a health insurance or health care policy, contract, 17580
or plan with coverage for children who are eligible for medical 17581
assistance shall first bill the insurer for any services provided 17582
for those children. If the insurer fails to pay all or any part of 17583
a claim filed under this section and the services for which the 17584
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 17585
Revised Code, the physician, hospital, or other medical services 17586
provider shall bill the remaining unpaid costs of the services in 17587
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 17588

Sec. 3121.12. (A) On receipt of a notice that a lump sum 17589
payment of one hundred fifty dollars or more is to be paid to the 17590
obligor, the court, with respect to a court support order, or the 17591
child support enforcement agency, with respect to an 17592
administrative child support order, shall do either of the 17593
following: 17594

(1) If the obligor is in default under the support order or 17595
has any arrearages under the support order, issue an order 17596
requiring the transmittal of the lump sum payment, or any portion 17597
of the lump sum payment sufficient to pay the arrearage in full, 17598

to the office of child support; 17599

(2) If the obligor is not in default under the support order 17600
and does not have any arrearages under the support order, issue an 17601
order directing the person who gave the notice to the court or 17602
agency to immediately pay the full amount of the lump sum payment 17603
to the obligor. 17604

(B) ~~On receipt of any~~ Any moneys received by the office of 17605
child support pursuant to division (A) of this section, ~~the office~~ 17606
~~of child support shall pay the amount of the lump sum payment that~~ 17607
~~is necessary to discharge all of the obligor's arrearages to the~~ 17608
~~obligee and, within two business days after its receipt of the~~ 17609
~~money, any amount that is remaining after the payment of the~~ 17610
~~arrearages to the obligor~~ be distributed in accordance with rules 17611
adopted under section 3121.71 of the Revised Code. 17612

(C) A court that issued an order prior to January 1, 1998, 17613
requiring an employer to withhold an amount from an obligor's 17614
personal earnings for the payment of support shall issue a 17615
supplemental order that does not change the original order or the 17616
related support order requiring the employer to do all of the 17617
following: 17618

(1) No later than the earlier of forty-five days before a 17619
lump sum payment is to be made or, if the obligor's right to a 17620
lump sum payment is determined less than forty-five days before it 17621
is to be made, the date on which that determination is made, 17622
notify the child support enforcement agency of any lump sum 17623
payment of any kind of one hundred fifty dollars or more that is 17624
to be paid to the obligor; 17625

(2) Hold the lump sum payment for thirty days after the date 17626
on which it would otherwise be paid to the obligor; 17627

(3) On order of the court, pay any specified amount of the 17628
lump sum payment to the office of child support. 17629

(D) An employer that knowingly fails to notify the child support enforcement agency in accordance with this section or section 3121.03 of the Revised Code of any lump sum payment to be made to an obligor is liable for any support payment not made to the obligee as a result of its knowing failure to give the notice.

Sec. 3121.50. On receipt of any amount forwarded from a payor or financial institution, the office of child support shall distribute the amount to the obligee within two business days of its receipt of the amount forwarded. The Unless otherwise prohibited from doing so by a law of this state or the United States, the office may distribute the amount by means of electronic disbursement, and the obligee shall accept payment by means of electronic disbursement. The director of job and family services may adopt, revise, or amend rules under Chapter 119. of the Revised Code to assist in the implementation of this section.

Sec. 3125.18. A child support enforcement agency shall administer a Title IV-A program identified under division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised Code that the department of job and family services provides for the agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code.

Sec. 3125.191. There is hereby created in the state treasury the child support operating fund, which is a state special revenue fund. The department of job and family services may deposit into the fund a portion of the federal incentives described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that are received by the department of job and family services from the United States department of health and human services. The department of job and family services may use money in the child support operating fund for program and administrative

purposes associated with the program of child support enforcement 17660
authorized by section 3125.03 of the Revised Code. 17661

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the 17662
state board of education shall adopt statewide academic standards 17663
for each of grades kindergarten through twelve in reading, 17664
writing, and mathematics. Not later than December 31, 2002, the 17665
state board shall adopt statewide academic standards for each of 17666
grades kindergarten through twelve in science and social studies. 17667
The standards shall specify the academic content and skills that 17668
students are expected to know and be able to do at each grade 17669
level. 17670

(2) When academic standards have been completed for any 17671
subject area required by this division, the state board shall 17672
inform all school districts of the content of those standards. 17673

(B) Not later than eighteen months after the completion of 17674
academic standards for any subject area required by division (A) 17675
of this section, the state board shall adopt a model curriculum 17676
for instruction in that subject area for each of grades 17677
kindergarten through twelve that is sufficient to meet the needs 17678
of students in every community. The model curriculum shall be 17679
aligned with the standards to ensure that the academic content and 17680
skills specified for each grade level are taught to students. When 17681
any model curriculum has been completed, the state board shall 17682
inform all school districts of the content of that model 17683
curriculum. 17684

All school districts may utilize the state standards and the 17685
model curriculum established by the state board, together with 17686
other relevant resources, examples, or models to ensure that 17687
students have the opportunity to attain the academic standards. 17688
Upon request, the department of education shall provide technical 17689

assistance to any district in implementing the model curriculum. 17690

Nothing in this section requires any school district to 17691
utilize all or any part of a model curriculum developed under this 17692
division. 17693

(C) The state board shall develop achievement tests aligned 17694
with the academic standards and model curriculum for each of the 17695
subject areas and grade levels required by section 3301.0710 of 17696
the Revised Code. 17697

When any achievement test has been completed, the state board 17698
shall inform all school districts of its completion, and the 17699
department of education shall make the achievement test available 17700
to the districts. School districts shall administer the 17701
achievement test beginning in the school year indicated in section 17702
3301.0712 of the Revised Code. 17703

~~(D)(1) Not later than July 1, 2008, and except as provided in~~ 17704
~~division (D)(3) of this section, the~~ The state board shall adopt a 17705
diagnostic assessment aligned with the academic standards and 17706
model curriculum for each of grades kindergarten through two in 17707
reading, writing, and mathematics and for ~~each of grades~~ grade 17708
~~three through eight in reading, writing, mathematics, science, and~~ 17709
~~social studies.~~ The diagnostic assessment shall be designed to 17710
measure student comprehension of academic content and mastery of 17711
related skills for the relevant subject area and grade level. Any 17712
diagnostic assessment shall not include components to identify 17713
gifted students. Blank copies of diagnostic tests shall be public 17714
records. 17715

(2) When each diagnostic assessment has been completed, the 17716
state board shall inform all school districts of its completion 17717
and the department of education shall make the diagnostic 17718
assessment available to the districts at no cost to the district. 17719
School districts shall administer the diagnostic assessment 17720

pursuant to section 3301.0715 of the Revised Code beginning the 17721
first school year following the development of the assessment. 17722

~~(3) The state board shall not adopt a diagnostic assessment 17723
for any subject area and grade level for which the state board 17724
develops an achievement test under division (C) of this section. 17725~~

(E) Whenever the state board or the department of education 17726
consults with persons for the purpose of drafting or reviewing any 17727
standards, diagnostic assessments, achievement tests, or model 17728
curriculum required under this section, the state board or the 17729
department shall first consult with parents of students in 17730
kindergarten through twelfth grade and with active Ohio classroom 17731
teachers, other school personnel, and administrators with 17732
expertise in the appropriate subject area. Whenever practicable, 17733
the state board and department shall consult with teachers 17734
recognized as outstanding in their fields. 17735

If the department contracts with more than one outside entity 17736
for the development of the achievement tests required by this 17737
section, the department shall ensure the interchangeability of 17738
those tests. 17739

(F) The fairness sensitivity review committee, established by 17740
rule of the state board of education, shall not allow any question 17741
on any achievement test or diagnostic assessment developed under 17742
this section or any proficiency test prescribed by former section 17743
3301.0710 of the Revised Code, as it existed prior to September 17744
11, 2001, to include, be written to promote, or inquire as to 17745
individual moral or social values or beliefs. The decision of the 17746
committee shall be final. This section does not create a private 17747
cause of action. 17748

Sec. 3301.0710. The state board of education shall adopt 17749
rules establishing a statewide program to test student 17750

achievement. The state board shall ensure that all tests 17751
administered under the testing program are aligned with the 17752
academic standards and model curricula adopted by the state board 17753
and are created with input from Ohio parents, Ohio classroom 17754
teachers, Ohio school administrators, and other Ohio school 17755
personnel pursuant to section 3301.079 of the Revised Code. 17756

The testing program shall be designed to ensure that students 17757
who receive a high school diploma demonstrate at least high school 17758
levels of achievement in reading, writing, mathematics, science, 17759
and social studies. 17760

(A)(1) The state board shall prescribe all of the following: 17761

(a) Two statewide achievement tests, one each designed to 17762
measure the level of reading and mathematics skill expected at the 17763
end of third grade; 17764

(b) Three statewide achievement tests, one each designed to 17765
measure the level of reading, writing, and mathematics skill 17766
expected at the end of fourth grade; 17767

(c) Four statewide achievement tests, one each designed to 17768
measure the level of reading, mathematics, science, and social 17769
studies skill expected at the end of fifth grade; 17770

(d) Two statewide achievement tests, one each designed to 17771
measure the level of reading and mathematics skill expected at the 17772
end of sixth grade; 17773

(e) Three statewide achievement tests, one each designed to 17774
measure the level of reading, writing, and mathematics skill 17775
expected at the end of seventh grade; 17776

(f) Four statewide achievement tests, one each designed to 17777
measure the level of reading, mathematics, science, and social 17778
studies skill expected at the end of eighth grade. 17779

(2) The state board shall determine and designate at least 17780

five ranges of scores on each of the achievement tests described 17781
in divisions (A)(1) and (B) of this section. Each range of scores 17782
shall be deemed to demonstrate a level of achievement so that any 17783
student attaining a score within such range has achieved one of 17784
the following: 17785

(a) An advanced level of skill; 17786

(b) An accelerated level of skill; 17787

(c) A proficient level of skill; 17788

(d) A basic level of skill; 17789

(e) A limited level of skill. 17790

(B) The tests prescribed under this division shall 17791
collectively be known as the Ohio graduation tests. The state 17792
board shall prescribe five statewide high school achievement 17793
tests, one each designed to measure the level of reading, writing, 17794
mathematics, science, and social studies skill expected at the end 17795
of tenth grade. The state board shall designate a score in at 17796
least the range designated under division (A)(2)(c) of this 17797
section on each such test that shall be deemed to be a passing 17798
score on the test as a condition toward granting high school 17799
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 17800
of the Revised Code. 17801

The state board may enter into a reciprocal agreement with 17802
the appropriate body or agency of any other state that has similar 17803
statewide achievement testing requirements for receiving high 17804
school diplomas, under which any student who has met an 17805
achievement testing requirement of one state is recognized as 17806
having met the similar achievement testing requirement of the 17807
other state for purposes of receiving a high school diploma. For 17808
purposes of this section and sections 3301.0711 and 3313.61 of the 17809
Revised Code, any student enrolled in any public high school in 17810

this state who has met an achievement testing requirement 17811
specified in a reciprocal agreement entered into under this 17812
division shall be deemed to have attained at least the applicable 17813
score designated under this division on each test required by this 17814
division that is specified in the agreement. 17815

(C) ~~The~~ Except as provided in division (H) of this section, 17816
the state board shall annually designate as follows the dates on 17817
which the tests prescribed under this section shall be 17818
administered: 17819

(1) For the reading test prescribed under division (A)(1)(a) 17820
of this section, as follows: 17821

(a) One date prior to the thirty-first day of December each 17822
school year; 17823

(b) At least one date of each school year that is not earlier 17824
than Monday of the week containing the ~~eight~~ first day of ~~March~~ 17825
May; 17826

(c) One date during the summer that is not earlier than the 17827
tenth day of June nor later than the fifteenth day of July for 17828
students receiving summer remediation services under section 17829
3313.608 of the Revised Code. 17830

(2) For the mathematics test prescribed under division 17831
(A)(1)(a) of this section and the tests prescribed under divisions 17832
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one 17833
date of each school year that is not earlier than Monday of the 17834
week containing the ~~eight~~ first day of ~~March~~ May; 17835

(3) For the tests prescribed under division (B) of this 17836
section, at least one date in each school year that is not earlier 17837
than Monday of the week containing the fifteenth day of March for 17838
all tenth grade students and at least one date prior to the 17839
thirty-first day of December and at least one date subsequent to 17840

that date but prior to the thirty-first day of March of each 17841
school year for eleventh and twelfth grade students. 17842

(D) In prescribing test dates pursuant to division (C)(3) of 17843
this section, the state board shall, to the greatest extent 17844
practicable, provide options to school districts in the case of 17845
tests administered under that division to eleventh and twelfth 17846
grade students and in the case of tests administered to students 17847
pursuant to division (C)(2) of section 3301.0711 of the Revised 17848
Code. Such options shall include at least an opportunity for 17849
school districts to give such tests outside of regular school 17850
hours. 17851

(E) In prescribing test dates pursuant to this section, the 17852
state board of education shall designate the dates in such a way 17853
as to allow a reasonable length of time between the administration 17854
of tests prescribed under this section and any administration of 17855
the National Assessment of Education Progress Test given to 17856
students in the same grade level pursuant to section 3301.27 of 17857
the Revised Code or federal law. 17858

(F) The state board shall prescribe a practice version of 17859
each Ohio graduation test described in division (B) of this 17860
section that is of comparable length to the actual test. 17861

(G) Any committee established by the department of education 17862
for the purpose of making recommendations to the state board 17863
regarding the state board's designation of scores on the tests 17864
described by this section shall inform the state board of the 17865
probable percentage of students who would score in each of the 17866
ranges established under division (A)(2) of this section on the 17867
tests if the committee's recommendations are adopted by the state 17868
board. To the extent possible, these percentages shall be 17869
disaggregated by gender, major racial and ethnic groups, limited 17870
English proficient students, economically disadvantaged students, 17871

students with disabilities, and migrant students. 17872

If the state board intends to make any change to the 17873
committee's recommendations, the state board shall explain the 17874
intended change to the Ohio accountability task force established 17875
by section 3302.021 of the Revised Code. The task force shall 17876
recommend whether the state board should proceed to adopt the 17877
intended change. Nothing in this division shall require the state 17878
board to designate test scores based upon the recommendations of 17879
the task force. 17880

(H)(1) The state board shall require any alternate assessment 17881
administered to a student under division (C)(1) of section 17882
3301.0711 of the Revised Code to be completed and submitted to the 17883
entity with which the department contracts for the scoring of the 17884
test not later than the first day of April of the school year in 17885
which the test is administered. 17886

(2) For any test prescribed by this section, the state board 17887
may designate a date one week earlier than the applicable date 17888
designated under division (C) of this section for the 17889
administration of the test to limited English proficient students. 17890

(3) In designating days for the administration of the tests 17891
prescribed by division (A) of this section, the state board shall 17892
require the tests for each grade level to be administered on 17893
consecutive days. 17894

Sec. 3301.0711. (A) The department of education shall: 17895

(1) Annually furnish to, grade, and score all tests required 17896
by section 3301.0710 of the Revised Code to be administered by 17897
city, local, exempted village, and joint vocational school 17898
districts, except that each district shall score any test 17899
administered pursuant to division (B)(10) of this section. Each 17900
test so furnished shall include the data verification code of the 17901

student to whom the test will be administered, as assigned 17902
pursuant to division (D)(2) of section 3301.0714 of the Revised 17903
Code. In furnishing the practice versions of Ohio graduation tests 17904
prescribed by division (F) of section 3301.0710 of the Revised 17905
Code, the department shall make the tests available on its web 17906
site for reproduction by districts. In awarding contracts for 17907
grading tests, the department shall give preference to Ohio-based 17908
entities employing Ohio residents. 17909

(2) Adopt rules for the ethical use of tests and prescribing 17910
the manner in which the tests prescribed by section 3301.0710 of 17911
the Revised Code shall be administered to students. 17912

(B) Except as provided in divisions (C) and (J) of this 17913
section, the board of education of each city, local, and exempted 17914
village school district shall, in accordance with rules adopted 17915
under division (A) of this section: 17916

(1) Administer the reading test prescribed under division 17917
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually 17918
to all students in the third grade who have not attained the score 17919
designated for that test under division (A)(2)(c) of section 17920
3301.0710 of the Revised Code and once each summer to students 17921
receiving summer remediation services under section 3313.608 of 17922
the Revised Code. 17923

(2) Administer the mathematics test prescribed under division 17924
(A)(1)(a) of section 3301.0710 of the Revised Code at least once 17925
annually to all students in the third grade. 17926

(3) Administer the tests prescribed under division (A)(1)(b) 17927
of section 3301.0710 of the Revised Code at least once annually to 17928
all students in the fourth grade. 17929

(4) Administer the tests prescribed under division (A)(1)(c) 17930
of section 3301.0710 of the Revised Code at least once annually to 17931
all students in the fifth grade. 17932

(5) Administer the tests prescribed under division (A)(1)(d)	17933
of section 3301.0710 of the Revised Code at least once annually to	17934
all students in the sixth grade.	17935
(6) Administer the tests prescribed under division (A)(1)(e)	17936
of section 3301.0710 of the Revised Code at least once annually to	17937
all students in the seventh grade.	17938
(7) Administer the tests prescribed under division (A)(1)(f)	17939
of section 3301.0710 of the Revised Code at least once annually to	17940
all students in the eighth grade.	17941
(8) Except as provided in division (B)(9) of this section,	17942
administer any test prescribed under division (B) of section	17943
3301.0710 of the Revised Code as follows:	17944
(a) At least once annually to all tenth grade students and at	17945
least twice annually to all students in eleventh or twelfth grade	17946
who have not yet attained the score on that test designated under	17947
that division;	17948
(b) To any person who has successfully completed the	17949
curriculum in any high school or the individualized education	17950
program developed for the person by any high school pursuant to	17951
section 3323.08 of the Revised Code but has not received a high	17952
school diploma and who requests to take such test, at any time	17953
such test is administered in the district.	17954
(9) In lieu of the board of education of any city, local, or	17955
exempted village school district in which the student is also	17956
enrolled, the board of a joint vocational school district shall	17957
administer any test prescribed under division (B) of section	17958
3301.0710 of the Revised Code at least twice annually to any	17959
student enrolled in the joint vocational school district who has	17960
not yet attained the score on that test designated under that	17961
division. A board of a joint vocational school district may also	17962
administer such a test to any student described in division	17963

(B)(8)(b) of this section. 17964

(10) If the district has been declared to be under an 17965
academic watch or in a state of academic emergency pursuant to 17966
section 3302.03 of the Revised Code or has a three-year average 17967
graduation rate of not more than seventy-five per cent, administer 17968
each test prescribed by division (F) of section 3301.0710 of the 17969
Revised Code in September to all ninth grade students, beginning 17970
in the school year that starts July 1, 2005. 17971

(C)(1)(a) Any student receiving special education services 17972
under Chapter 3323. of the Revised Code may be excused from taking 17973
any particular test required to be administered under this section 17974
if the individualized education program developed for the student 17975
pursuant to section 3323.08 of the Revised Code excuses the 17976
student from taking that test and instead specifies an alternate 17977
assessment method approved by the department of education as 17978
conforming to requirements of federal law for receipt of federal 17979
funds for disadvantaged pupils. To the extent possible, the 17980
individualized education program shall not excuse the student from 17981
taking a test unless no reasonable accommodation can be made to 17982
enable the student to take the test. 17983

(b) Any alternate assessment approved by the department for a 17984
student under this division shall produce measurable results 17985
comparable to those produced by the tests which the alternate 17986
assessments are replacing in order to allow for the student's 17987
assessment results to be included in the data compiled for a 17988
school district or building under section 3302.03 of the Revised 17989
Code. 17990

(c) Any student enrolled in a chartered nonpublic school who 17991
has been identified, based on an evaluation conducted in 17992
accordance with section 3323.03 of the Revised Code or section 504 17993
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 17994

794, as amended, as a child with a disability shall be excused 17995
from taking any particular test required to be administered under 17996
this section if a plan developed for the student pursuant to rules 17997
adopted by the state board excuses the student from taking that 17998
test. In the case of any student so excused from taking a test, 17999
the chartered nonpublic school shall not prohibit the student from 18000
taking the test. 18001

(2) A district board may, for medical reasons or other good 18002
cause, excuse a student from taking a test administered under this 18003
section on the date scheduled, but any such test shall be 18004
administered to such excused student not later than nine days 18005
following the scheduled date. The board shall annually report the 18006
number of students who have not taken one or more of the tests 18007
required by this section to the state board of education not later 18008
than the thirtieth day of June. 18009

(3) As used in this division, "limited English proficient 18010
student" has the same meaning as in 20 U.S.C. 7801. 18011

No school district board shall excuse any limited English 18012
proficient student from taking any particular test required to be 18013
administered under this section, except that any limited English 18014
proficient student who has been enrolled in United States schools 18015
for less than one full school year shall not be required to take 18016
any such reading or writing test. However, no board shall prohibit 18017
a limited English proficient student who is not required to take a 18018
test under this division from taking the test. A board may permit 18019
any limited English proficient student to take any test required 18020
to be administered under this section with appropriate 18021
accommodations, as determined by the department. For each limited 18022
English proficient student, each school district shall annually 18023
assess that student's progress in learning English, in accordance 18024
with procedures approved by the department. 18025

The governing authority of a chartered nonpublic school may 18026
excuse a limited English proficient student from taking any test 18027
administered under this section. However, no governing authority 18028
shall prohibit a limited English proficient student from taking 18029
the test. 18030

(D)(1) In the school year next succeeding the school year in 18031
which the tests prescribed by division (A)(1) or (B) of section 18032
3301.0710 of the Revised Code or former division (A)(1), (A)(2), 18033
or (B) of section 3301.0710 of the Revised Code as it existed 18034
prior to September 11, 2001, are administered to any student, the 18035
board of education of any school district in which the student is 18036
enrolled in that year shall provide to the student intervention 18037
services commensurate with the student's test performance, 18038
including any intensive intervention required under section 18039
3313.608 of the Revised Code, in any skill in which the student 18040
failed to demonstrate at least a score at the proficient level on 18041
the test. 18042

(2) Following any administration of the tests prescribed by 18043
division (F) of section 3301.0710 of the Revised Code to ninth 18044
grade students, each school district that has a three-year average 18045
graduation rate of not more than seventy-five per cent shall 18046
determine for each high school in the district whether the school 18047
shall be required to provide intervention services to any students 18048
who took the tests. In determining which high schools shall 18049
provide intervention services based on the resources available, 18050
the district shall consider each school's graduation rate and 18051
scores on the practice tests. The district also shall consider the 18052
scores received by ninth grade students on the reading and 18053
mathematics tests prescribed under division (A)(1)(f) of section 18054
3301.0710 of the Revised Code in the eighth grade in determining 18055
which high schools shall provide intervention services. 18056

Each high school selected to provide intervention services 18057

under this division shall provide intervention services to any student whose test results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

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

(F) No person shall be charged a fee for taking any test administered under this section.

~~(G) Not later than sixty days after any administration of any test prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code, the~~ (1) Each school district board shall submit the tests administered in the spring under division (B)(1) of this section and the tests administered under divisions (B)(2) to (7) of this section to the entity with which the department contracts for the scoring of the tests not later than the Friday after the tests are administered, except that any such test that a student takes during the make-up period described in division (C)(2) of

this section shall be submitted not later than the Friday 18090
following the day the student takes the test. 18091

(2) The department or an entity with which the department 18092
contracts for the scoring of the test shall send to each school 18093
district board a list of the individual test scores of all persons 18094
taking ~~the~~ any test prescribed by division (A)(1) or (B) of 18095
section 3301.0710 of the Revised Code within sixty days after its 18096
administration, but in no case shall the scores be returned later 18097
than the fifteenth day of June following the administration. For 18098
any tests administered under this section by a joint vocational 18099
school district, the department or entity shall also send to each 18100
city, local, or exempted village school district a list of the 18101
individual test scores of any students of such city, local, or 18102
exempted village school district who are attending school in the 18103
joint vocational school district. 18104

(H) Individual test scores on any tests administered under 18105
this section shall be released by a district board only in 18106
accordance with section 3319.321 of the Revised Code and the rules 18107
adopted under division (A) of this section. No district board or 18108
its employees shall utilize individual or aggregate test results 18109
in any manner that conflicts with rules for the ethical use of 18110
tests adopted pursuant to division (A) of this section. 18111

(I) Except as provided in division (G) of this section, the 18112
department or an entity with which the department contracts for 18113
the scoring of the test shall not release any individual test 18114
scores on any test administered under this section ~~and~~. The state 18115
board of education shall adopt rules to ensure the protection of 18116
student confidentiality at all times. The rules may require the 18117
use of the data verification codes assigned to students pursuant 18118
to division (D)(2) of section 3301.0714 of the Revised Code to 18119
protect the confidentiality of student test scores. 18120

(J) Notwithstanding division (D) of section 3311.52 of the 18121

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.

(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
divisions (A) to (C) of section 3311.52 of the Revised Code may
enter into an agreement with the board of education of the
cooperative education school district for administering any test
prescribed under this section to students of the city, exempted
village, or local school district who are attending school in the
cooperative education school district.

(2) 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
section 3311.521 of the Revised Code shall enter into an agreement
with the cooperative district that provides for the administration
of any test prescribed under this section to both of the
following:

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

(b) Persons described in division (B)(8)(b) of this section.

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

(K)(1) Any chartered nonpublic school may participate in the

testing program by administering any of the tests prescribed by 18153
section 3301.0710 or 3301.0712 of the Revised Code if the chief 18154
administrator of the school specifies which tests the school 18155
wishes to administer. Such specification shall be made in writing 18156
to the superintendent of public instruction prior to the first day 18157
of August of any school year in which tests are administered and 18158
shall include a pledge that the nonpublic school will administer 18159
the specified tests in the same manner as public schools are 18160
required to do under this section and rules adopted by the 18161
department. 18162

(2) The department of education shall furnish the tests 18163
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 18164
to any chartered nonpublic school electing to participate under 18165
this division. 18166

(L)(1) The superintendent of the state school for the blind 18167
and the superintendent of the state school for the deaf shall 18168
administer the tests described by section 3301.0710 of the Revised 18169
Code. Each superintendent shall administer the tests in the same 18170
manner as district boards are required to do under this section 18171
and rules adopted by the department of education and in conformity 18172
with division (C)(1)(a) of this section. 18173

(2) The department of education shall furnish the tests 18174
described by section 3301.0710 of the Revised Code to each 18175
superintendent. 18176

(M) Notwithstanding division (E) of this section, a school 18177
district may use a student's failure to attain a score in at least 18178
the basic range on the mathematics test described by division 18179
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 18180
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 18181
of section 3301.0710 of the Revised Code as a factor in retaining 18182
that student in the current grade level. 18183

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) 18184
of this section, the tests required by section 3301.0710 of the 18185
Revised Code shall become public records pursuant to section 18186
149.43 of the Revised Code on the first day of July following the 18187
school year that the test was administered, except that the 18188
reading test prescribed under division (A)(1)(a) of section 18189
3301.0710 of the Revised Code shall become a public record on the 18190
sixteenth day of July following the school year that the test was 18191
administered. 18192

(2) The department may field test proposed test questions 18193
with samples of students to determine the validity, reliability, 18194
or appropriateness of test questions for possible inclusion in a 18195
future year's test. The department also may use anchor questions 18196
on tests to ensure that different versions of the same test are of 18197
comparable difficulty. 18198

Field test questions and anchor questions shall not be 18199
considered in computing test scores for individual students. Field 18200
test questions and anchor questions may be included as part of the 18201
administration of any test required by section 3301.0710 of the 18202
Revised Code. 18203

(3) Any field test question or anchor question administered 18204
under division (N)(2) of this section shall not be a public 18205
record. Such field test questions and anchor questions shall be 18206
redacted from any tests which are released as a public record 18207
pursuant to division (N)(1) of this section. 18208

(4) This division applies to the tests prescribed by division 18209
(A) of section 3301.0710 of the Revised Code. 18210

(a) The first administration of each test, as specified in 18211
section 3301.0712 of the Revised Code, shall be a public record. 18212

(b) For subsequent administrations of each test, not less 18213
than forty per cent of the questions on the test that are used to 18214

compute a student's score shall be a public record. The department 18215
shall determine which questions will be needed for reuse on a 18216
future test and those questions shall not be public records and 18217
shall be redacted from the test prior to its release as a public 18218
record. 18219

(5) Each test prescribed by division (B) of section 3301.0710 18220
of the Revised Code that is administered in the spring shall be a 18221
public record. Each test prescribed by that division that is 18222
administered in the fall or summer shall not be a public record. 18223

(0) As used in this section: 18224

(1) "Three-year average" means the average of the most recent 18225
consecutive three school years of data. 18226

(2) "Dropout" means a student who withdraws from school 18227
before completing course requirements for graduation and who is 18228
not enrolled in an education program approved by the state board 18229
of education or an education program outside the state. "Dropout" 18230
does not include a student who has departed the country. 18231

(3) "Graduation rate" means the ratio of students receiving a 18232
diploma to the number of students who entered ninth grade four 18233
years earlier. Students who transfer into the district are added 18234
to the calculation. Students who transfer out of the district for 18235
reasons other than dropout are subtracted from the calculation. If 18236
a student who was a dropout in any previous year returns to the 18237
same school district, that student shall be entered into the 18238
calculation as if the student had entered ninth grade four years 18239
before the graduation year of the graduating class that the 18240
student joins. 18241

Sec. 3301.0714. (A) The state board of education shall adopt 18242
rules for a statewide education management information system. The 18243
rules shall require the state board to establish guidelines for 18244

the establishment and maintenance of the system in accordance with 18245
this section and the rules adopted under this section. The 18246
guidelines shall include: 18247

(1) Standards identifying and defining the types of data in 18248
the system in accordance with divisions (B) and (C) of this 18249
section; 18250

(2) Procedures for annually collecting and reporting the data 18251
to the state board in accordance with division (D) of this 18252
section; 18253

(3) Procedures for annually compiling the data in accordance 18254
with division (G) of this section; 18255

(4) Procedures for annually reporting the data to the public 18256
in accordance with division (H) of this section. 18257

(B) The guidelines adopted under this section shall require 18258
the data maintained in the education management information system 18259
to include at least the following: 18260

(1) Student participation and performance data, for each 18261
grade in each school district as a whole and for each grade in 18262
each school building in each school district, that includes: 18263

(a) The numbers of students receiving each category of 18264
instructional service offered by the school district, such as 18265
regular education instruction, vocational education instruction, 18266
specialized instruction programs or enrichment instruction that is 18267
part of the educational curriculum, instruction for gifted 18268
students, instruction for handicapped students, and remedial 18269
instruction. The guidelines shall require instructional services 18270
under this division to be divided into discrete categories if an 18271
instructional service is limited to a specific subject, a specific 18272
type of student, or both, such as regular instructional services 18273
in mathematics, remedial reading instructional services, 18274
instructional services specifically for students gifted in 18275

mathematics or some other subject area, or instructional services	18276
for students with a specific type of handicap. The categories of	18277
instructional services required by the guidelines under this	18278
division shall be the same as the categories of instructional	18279
services used in determining cost units pursuant to division	18280
(C)(3) of this section.	18281
(b) The numbers of students receiving support or	18282
extracurricular services for each of the support services or	18283
extracurricular programs offered by the school district, such as	18284
counseling services, health services, and extracurricular sports	18285
and fine arts programs. The categories of services required by the	18286
guidelines under this division shall be the same as the categories	18287
of services used in determining cost units pursuant to division	18288
(C)(4)(a) of this section.	18289
(c) Average student grades in each subject in grades nine	18290
through twelve;	18291
(d) Academic achievement levels as assessed by the testing of	18292
student achievement under sections 3301.0710 and 3301.0711 of the	18293
Revised Code;	18294
(e) The number of students designated as having a	18295
handicapping condition pursuant to division (C)(1) of section	18296
3301.0711 of the Revised Code;	18297
(f) The numbers of students reported to the state board	18298
pursuant to division (C)(2) of section 3301.0711 of the Revised	18299
Code;	18300
(g) Attendance rates and the average daily attendance for the	18301
year. For purposes of this division, a student shall be counted as	18302
present for any field trip that is approved by the school	18303
administration.	18304
(h) Expulsion rates;	18305

(i) Suspension rates;	18306
(j) The percentage of students receiving corporal punishment;	18307
(k) Dropout rates;	18308
(l) Rates of retention in grade;	18309
(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	18310 18311 18312
(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;	18313 18314 18315 18316 18317
(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.	18318 18319 18320 18321 18322 18323 18324
(2) Personnel and classroom enrollment data for each school district, including:	18325 18326
(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	18327 18328 18329 18330 18331 18332 18333 18334 18335

whole, and for each grade in each school building. 18336

(b) The total number of employees and the number of full-time 18337
equivalent employees providing each category of service used 18338
pursuant to divisions (C)(4)(a) and (b) of this section, and the 18339
total numbers of licensed employees and nonlicensed employees and 18340
the numbers of full-time equivalent licensed employees and 18341
nonlicensed employees providing each category used pursuant to 18342
division (C)(4)(c) of this section. The guidelines adopted under 18343
this section shall require these categories of data to be 18344
maintained for the school district as a whole and, wherever 18345
applicable, for each grade in the school district as a whole, for 18346
each school building as a whole, and for each grade in each school 18347
building. 18348

(c) The total number of regular classroom teachers teaching 18349
classes of regular education and the average number of pupils 18350
enrolled in each such class, in each of grades kindergarten 18351
through five in the district as a whole and in each school 18352
building in the school district. 18353

(d) The number of master teachers employed by each school 18354
district and each school building, once a definition of master 18355
teacher has been developed by the educator standards board 18356
pursuant to section 3319.61 of the Revised Code. 18357

(3)(a) Student demographic data for each school district, 18358
including information regarding the gender ratio of the school 18359
district's pupils, the racial make-up of the school district's 18360
pupils, the number of limited English proficient students in the 18361
district, and an appropriate measure of the number of the school 18362
district's pupils who reside in economically disadvantaged 18363
households. The demographic data shall be collected in a manner to 18364
allow correlation with data collected under division (B)(1) of 18365
this section. Categories for data collected pursuant to division 18366

(B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government. 18367
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(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs. 18369
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(4) Any data required to be collected pursuant to federal law. 18374
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(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following: 18376
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(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code. 18385
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(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building. 18391
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(3) Instructional services costs for each category of 18397

instructional service provided directly to students and required 18398
by guidelines adopted pursuant to division (B)(1)(a) of this 18399
section. The guidelines shall require the cost units under 18400
division (C)(3) of this section to be designed so that each of 18401
them may be compiled and reported in terms of average expenditure 18402
per pupil receiving the service in the school district as a whole 18403
and average expenditure per pupil receiving the service in each 18404
building in the school district and in terms of a total cost for 18405
each category of service and, as a breakdown of the total cost, a 18406
cost for each of the following components: 18407

(a) The cost of each instructional services category required 18408
by guidelines adopted under division (B)(1)(a) of this section 18409
that is provided directly to students by a classroom teacher; 18410

(b) The cost of the instructional support services, such as 18411
services provided by a speech-language pathologist, classroom 18412
aide, multimedia aide, or librarian, provided directly to students 18413
in conjunction with each instructional services category; 18414

(c) The cost of the administrative support services related 18415
to each instructional services category, such as the cost of 18416
personnel that develop the curriculum for the instructional 18417
services category and the cost of personnel supervising or 18418
coordinating the delivery of the instructional services category. 18419

(4) Support or extracurricular services costs for each 18420
category of service directly provided to students and required by 18421
guidelines adopted pursuant to division (B)(1)(b) of this section. 18422
The guidelines shall require the cost units under division (C)(4) 18423
of this section to be designed so that each of them may be 18424
compiled and reported in terms of average expenditure per pupil 18425
receiving the service in the school district as a whole and 18426
average expenditure per pupil receiving the service in each 18427
building in the school district and in terms of a total cost for 18428

each category of service and, as a breakdown of the total cost, a 18429
cost for each of the following components: 18430

(a) The cost of each support or extracurricular services 18431
category required by guidelines adopted under division (B)(1)(b) 18432
of this section that is provided directly to students by a 18433
licensed employee, such as services provided by a guidance 18434
counselor or any services provided by a licensed employee under a 18435
supplemental contract; 18436

(b) The cost of each such services category provided directly 18437
to students by a nonlicensed employee, such as janitorial 18438
services, cafeteria services, or services of a sports trainer; 18439

(c) The cost of the administrative services related to each 18440
services category in division (C)(4)(a) or (b) of this section, 18441
such as the cost of any licensed or nonlicensed employees that 18442
develop, supervise, coordinate, or otherwise are involved in 18443
administering or aiding the delivery of each services category. 18444

(D)(1) The guidelines adopted under this section shall 18445
require school districts to collect information about individual 18446
students, staff members, or both in connection with any data 18447
required by division (B) or (C) of this section or other reporting 18448
requirements established in the Revised Code. The guidelines may 18449
also require school districts to report information about 18450
individual staff members in connection with any data required by 18451
division (B) or (C) of this section or other reporting 18452
requirements established in the Revised Code. The guidelines shall 18453
not authorize school districts to request social security numbers 18454
of individual students. The guidelines shall prohibit the 18455
reporting under this section of a student's name, address, and 18456
social security number to the state board of education or the 18457
department of education. The guidelines shall also prohibit the 18458
reporting under this section of any personally identifiable 18459

information about any student, except for the purpose of assigning 18460
the data verification code required by division (D)(2) of this 18461
section, to any other person unless such person is employed by the 18462
school district or the data acquisition site operated under 18463
section 3301.075 of the Revised Code and is authorized by the 18464
district or acquisition site to have access to such information or 18465
is employed by an entity with which the department contracts for 18466
the scoring of tests administered under section 3301.0711 or 18467
3301.0712 of the Revised Code. The guidelines may require school 18468
districts to provide the social security numbers of individual 18469
staff members. 18470

(2) The guidelines shall provide for each school district or 18471
community school to assign a data verification code that is unique 18472
on a statewide basis over time to each student whose initial Ohio 18473
enrollment is in that district or school and to report all 18474
required individual student data for that student utilizing such 18475
code. The guidelines shall also provide for assigning data 18476
verification codes to all students enrolled in districts or 18477
community schools on the effective date of the guidelines 18478
established under this section. 18479

Individual student data shall be reported to the department 18480
through the data acquisition sites utilizing the code but at no 18481
time shall the state board or the department have access to 18482
information that would enable any data verification code to be 18483
matched to personally identifiable student data. 18484

Each school district shall ensure that the data verification 18485
code is included in the student's records reported to any 18486
subsequent school district or community school in which the 18487
student enrolls. Any such subsequent district or school shall 18488
utilize the same identifier in its reporting of data under this 18489
section. 18490

(E) The guidelines adopted under this section may require 18491
school districts to collect and report data, information, or 18492
reports other than that described in divisions (A), (B), and (C) 18493
of this section for the purpose of complying with other reporting 18494
requirements established in the Revised Code. The other data, 18495
information, or reports may be maintained in the education 18496
management information system but are not required to be compiled 18497
as part of the profile formats required under division (G) of this 18498
section or the annual statewide report required under division (H) 18499
of this section. 18500

(F) Beginning with the school year that begins July 1, 1991, 18501
the board of education of each school district shall annually 18502
collect and report to the state board, in accordance with the 18503
guidelines established by the board, the data required pursuant to 18504
this section. A school district may collect and report these data 18505
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 18506

(G) The state board shall, in accordance with the procedures 18507
it adopts, annually compile the data reported by each school 18508
district pursuant to division (D) of this section. The state board 18509
shall design formats for profiling each school district as a whole 18510
and each school building within each district and shall compile 18511
the data in accordance with these formats. These profile formats 18512
shall: 18513

(1) Include all of the data gathered under this section in a 18514
manner that facilitates comparison among school districts and 18515
among school buildings within each school district; 18516

(2) Present the data on academic achievement levels as 18517
assessed by the testing of student achievement maintained pursuant 18518
to division (B)(1)(d) of this section. 18519

(H)(1) The state board shall, in accordance with the 18520
procedures it adopts, annually prepare a statewide report for all 18521

school districts and the general public that includes the profile 18522
of each of the school districts developed pursuant to division (G) 18523
of this section. Copies of the report shall be sent to each school 18524
district. 18525

(2) The state board shall, in accordance with the procedures 18526
it adopts, annually prepare an individual report for each school 18527
district and the general public that includes the profiles of each 18528
of the school buildings in that school district developed pursuant 18529
to division (G) of this section. Copies of the report shall be 18530
sent to the superintendent of the district and to each member of 18531
the district board of education. 18532

(3) Copies of the reports received from the state board under 18533
divisions (H)(1) and (2) of this section shall be made available 18534
to the general public at each school district's offices. Each 18535
district board of education shall make copies of each report 18536
available to any person upon request and payment of a reasonable 18537
fee for the cost of reproducing the report. The board shall 18538
annually publish in a newspaper of general circulation in the 18539
school district, at least twice during the two weeks prior to the 18540
week in which the reports will first be available, a notice 18541
containing the address where the reports are available and the 18542
date on which the reports will be available. 18543

(I) Any data that is collected or maintained pursuant to this 18544
section and that identifies an individual pupil is not a public 18545
record for the purposes of section 149.43 of the Revised Code. 18546

(J) As used in this section: 18547

(1) "School district" means any city, local, exempted 18548
village, or joint vocational school district. 18549

(2) "Cost" means any expenditure for operating expenses made 18550
by a school district excluding any expenditures for debt 18551
retirement except for payments made to any commercial lending 18552

institution for any loan approved pursuant to section 3313.483 of 18553
the Revised Code. 18554

(K) Any person who removes data from the information system 18555
established under this section for the purpose of releasing it to 18556
any person not entitled under law to have access to such 18557
information is subject to section 2913.42 of the Revised Code 18558
prohibiting tampering with data. 18559

(L) Any time the department of education determines that a 18560
school district has taken any of the actions described under 18561
division (L)(1), (2), or (3) of this section, it shall make a 18562
report of the actions of the district, send a copy of the report 18563
to the superintendent of such school district, and maintain a copy 18564
of the report in its files: 18565

(1) The school district fails to meet any deadline 18566
established pursuant to this section for the reporting of any data 18567
to the education management information system; 18568

(2) The school district fails to meet any deadline 18569
established pursuant to this section for the correction of any 18570
data reported to the education management information system; 18571

(3) The school district reports data to the education 18572
management information system in a condition, as determined by the 18573
department, that indicates that the district did not make a good 18574
faith effort in reporting the data to the system. 18575

Any report made under this division shall include 18576
recommendations for corrective action by the school district. 18577

Upon making a report for the first time in a fiscal year, the 18578
department shall withhold ten per cent of the total amount due 18579
during that fiscal year under Chapter 3317. of the Revised Code to 18580
the school district to which the report applies. Upon making a 18581
second report in a fiscal year, the department shall withhold an 18582

additional twenty per cent of such total amount due during that 18583
fiscal year to the school district to which the report applies. 18584
The department shall not release such funds unless it determines 18585
that the district has taken corrective action. However, no such 18586
release of funds shall occur if the district fails to take 18587
corrective action within forty-five days of the date upon which 18588
the report was made by the department. 18589

(M) No data acquisition site or school district shall 18590
acquire, change, or update its student administration software 18591
package to manage and report data required to be reported to the 18592
department unless it converts to a student software package that 18593
is certified by the department. 18594

(N) The state board of education, in accordance with sections 18595
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 18596
license as defined under division (A) of section 3319.31 of the 18597
Revised Code that has been issued to any school district employee 18598
found to have willfully reported erroneous, inaccurate, or 18599
incomplete data to the education management information system. 18600

(O) No person shall release or maintain any information about 18601
any student in violation of this section. Whoever violates this 18602
division is guilty of a misdemeanor of the fourth degree. 18603

(P) The department shall disaggregate the data collected 18604
under division (B)(1)(o) of this section according to the race and 18605
socioeconomic status of the students assessed. No data collected 18606
under that division shall be included on the report cards required 18607
by section 3302.03 of the Revised Code. 18608

(Q) If the department cannot compile any of the information 18609
required by division (C)(5) of section 3302.03 of the Revised Code 18610
based upon the data collected under this section, the department 18611
shall develop a plan and a reasonable timeline for the collection 18612
of any data necessary to comply with that division. 18613

Sec. 3301.0715. (A) Except as provided in division (E) of 18614
this section, the board of education of each city, local, and 18615
exempted village school district shall administer each applicable 18616
diagnostic assessment developed and provided to the district in 18617
accordance with section 3301.079 of the Revised Code to the 18618
following: 18619

(1) Each student enrolled in a building subject to division 18620
(E) of section 3302.04 of the Revised Code; 18621

(2) Any student who transfers into the district or to a 18622
different school within the district if each applicable diagnostic 18623
assessment was not administered by the district or school the 18624
student previously attended in the current school year, within 18625
thirty days after the date of transfer. If the district or school 18626
into which the student transfers cannot determine whether the 18627
student has taken any applicable diagnostic assessment in the 18628
current school year, the district or school may administer the 18629
diagnostic assessment to the student. 18630

(3) Each kindergarten student, not later than six weeks after 18631
the first day of school. For the purpose of division (A)(3) of 18632
this section, the district shall administer the kindergarten 18633
readiness assessment provided by the department of education. The 18634
district may administer the readiness assessment to a student 18635
prior to the student's enrollment in kindergarten, but in no case 18636
shall the results of the readiness assessment be used to prohibit 18637
the student from enrolling in kindergarten. 18638

(4) Each student enrolled in first or second grade. 18639

(B) Each district board shall administer each diagnostic 18640
assessment as the board deems appropriate. However, the board 18641
shall administer any diagnostic assessment at least once annually 18642
to all students in the appropriate grade level. A district board 18643

may administer any diagnostic assessment in the fall and spring of 18644
a school year to measure the amount of academic growth 18645
attributable to the instruction received by students during that 18646
school year. 18647

(C) Each district board shall utilize and score any 18648
diagnostic assessment administered under division (A) of this 18649
section in accordance with rules established by the department. 18650
Except as required by division (B)(1)(o) of section 3301.0714 of 18651
the Revised Code, neither the state board of education nor the 18652
department shall require school districts to report the results of 18653
diagnostic assessments for any students to the department or to 18654
make any such results available in any form to the public. After 18655
the administration of any diagnostic assessment, each district 18656
shall provide a student's completed diagnostic assessment, the 18657
results of such assessment, and any other accompanying documents 18658
used during the administration of the assessment to the parent of 18659
that student upon the parent's request. 18660

(D) Each district board shall provide intervention services 18661
to students whose diagnostic assessments show that they are 18662
failing to make satisfactory progress toward attaining the 18663
academic standards for their grade level. 18664

(E) Any district that made adequate yearly progress, as 18665
defined in section 3302.01 of the Revised Code, in the immediately 18666
preceding school year may assess student progress in grades one 18667
through ~~eight~~ three using a diagnostic assessment other than the 18668
diagnostic assessment required by division (A) of this section. 18669

(F) A district board may administer ~~any~~ the third grade 18670
writing diagnostic assessment provided to the district in 18671
accordance with section 3301.079 of the Revised Code to any 18672
student enrolled in a building that is not subject to division 18673
(A)(1) of this section. Any district electing to administer the 18674

diagnostic ~~assessments~~ assessment to students under this division 18675
shall provide intervention services to any such student whose 18676
diagnostic assessment shows unsatisfactory progress toward 18677
attaining the academic standards for the student's grade level. 18678

Sec. 3301.12. (A) The superintendent of public instruction in 18679
addition to the authority otherwise imposed on ~~him~~ the 18680
superintendent, shall perform the following duties: 18681

(1) ~~He~~ The superintendent shall provide technical and 18682
professional assistance and advice to all school districts in 18683
reference to all aspects of education, including finance, 18684
buildings and equipment, administration, organization of school 18685
districts, curriculum and instruction, transportation of pupils, 18686
personnel problems, and the interpretation of school laws and 18687
state regulations. 18688

(2) ~~He~~ The superintendent shall prescribe and require the 18689
preparation and filing of such financial and other reports from 18690
school districts, officers, and employees as are necessary or 18691
proper. ~~He~~ The superintendent shall prescribe and require the 18692
installation by school districts of such standardized reporting 18693
forms and accounting procedures as are essential to the 18694
businesslike operations of the public schools of the state. 18695

(3) ~~He~~ The superintendent shall conduct such studies and 18696
research projects as are necessary or desirable for the 18697
improvement of public school education in Ohio, and such as may be 18698
assigned to ~~him~~ the superintendent by the state board of 18699
education. Such studies and projects may include analysis of data 18700
contained in the education management information system 18701
established under section 3301.0714 of the Revised Code. For any 18702
study or project that requires the analysis of individual student 18703
data, the department of education or any entity with which the 18704
superintendent or department contracts to conduct the study or 18705

project shall maintain the confidentiality of student data at all 18706
times. For this purpose, the department or contracting entity 18707
shall use the data verification code assigned pursuant to division 18708
(D)(2) of section 3301.0714 of the Revised Code for each student 18709
whose data is analyzed. Except as otherwise provided in division 18710
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 18711
the superintendent, the department, the state board of education, 18712
or any entity conducting a study or research project on the 18713
superintendent's behalf have access to a student's name, address, 18714
or social security number while analyzing individual student data. 18715

(4) ~~He~~ The superintendent shall prepare and submit annually 18716
to the state board of education a report of the activities of the 18717
department of education and the status, problems, and needs of 18718
education in the state of Ohio. 18719

(5) ~~He~~ The superintendent shall supervise all agencies over 18720
which the board exercises administrative control, including 18721
schools for education of handicapped persons. 18722

(B) The superintendent of public instruction may annually 18723
inspect and analyze the expenditures of each school district and 18724
make a determination as to the efficiency of each district's 18725
costs, relative to other school districts in the state, for 18726
instructional, administrative, and student support services. The 18727
superintendent shall notify each school district as to the nature 18728
of, and reasons for, ~~his~~ the determination. The state board of 18729
education shall adopt rules in accordance with Chapter 119. of the 18730
Revised Code setting forth the procedures and standards for the 18731
performance of the inspection and analysis. 18732

Sec. 3301.16. Pursuant to standards prescribed by the state 18733
board of education as provided in division (D) of section 3301.07 18734
of the Revised Code, the state board shall classify and charter 18735
school districts and individual schools within each district 18736

except that no charter shall be granted to a nonpublic school 18737
unless pursuant to division (K) of section 3301.0711 of the 18738
Revised Code the school elects to administer the tests prescribed 18739
by division (B) of section 3301.0710 of the Revised Code beginning 18740
July 1, 1995. ~~The~~ 18741

In the course of considering the charter of a new school 18742
district created under section 3311.26 or 3311.38 of the Revised 18743
Code, the state board shall require the party proposing creation 18744
of the district to submit to the board a map, certified by the 18745
county auditor of the county in which the proposed new district is 18746
located, showing the boundaries of the proposed new district. In 18747
the case of a proposed new district located in more than one 18748
county, the map shall be certified by the county auditor of each 18749
county in which the proposed district is located. 18750

The state board shall revoke the charter of any school 18751
district or school which fails to meet the standards for 18752
elementary and high schools as prescribed by the board. The state 18753
board shall also revoke the charter of any nonpublic school that 18754
does not comply with section 3313.612 of the Revised Code or, on 18755
or after July 1, 1995, does not participate in the testing program 18756
prescribed by division (B) of section 3301.0710 of the Revised 18757
Code. ~~In~~ 18758

In the issuance and revocation of school district or school 18759
charters, the state board shall be governed by the provisions of 18760
Chapter 119. of the Revised Code. 18761

No school district, or individual school operated by a school 18762
district, shall operate without a charter issued by the state 18763
board under this section. 18764

In case a school district charter is revoked pursuant to this 18765
section, the state board may dissolve the school district and 18766
transfer its territory to one or more adjacent districts. An 18767

equitable division of the funds, property, and indebtedness of the 18768
school district shall be made by the state board among the 18769
receiving districts. The board of education of a receiving 18770
district shall accept such territory pursuant to the order of the 18771
state board. Prior to dissolving the school district, the state 18772
board shall notify the appropriate educational service center 18773
governing board and all adjacent school district boards of 18774
education of its intention to do so. Boards so notified may make 18775
recommendations to the state board regarding the proposed 18776
dissolution and subsequent transfer of territory. Except as 18777
provided in section 3301.161 of the Revised Code, the transfer 18778
ordered by the state board shall become effective on the date 18779
specified by the state board, but the date shall be at least 18780
thirty days following the date of issuance of the order. 18781

A high school is one of higher grade than an elementary 18782
school, in which instruction and training are given in accordance 18783
with sections 3301.07 and 3313.60 of the Revised Code and which 18784
also offers other subjects of study more advanced than those 18785
taught in the elementary schools and such other subjects as may be 18786
approved by the state board of education. 18787

An elementary school is one in which instruction and training 18788
are given in accordance with sections 3301.07 and 3313.60 of the 18789
Revised Code and which offers such other subjects as may be 18790
approved by the state board of education. In districts wherein a 18791
junior high school is maintained, the elementary schools in that 18792
district may be considered to include only the work of the first 18793
six school years inclusive, plus the kindergarten year. 18794

Sec. 3301.311. (A) As used in this section, "preschool 18795
program" and "school child program" have the same meanings as in 18796
section 3301.52 of the Revised Code. 18797

(B) After ~~June 30, 2001~~ July 1, 2005, no head-start preschool 18798

program, school child program, or early learning program, as 18799
defined by the department of education, shall receive any funds 18800
from the state unless fifty per cent of the staff members employed 18801
by that program as teachers are working toward an associate degree 18802
of a type approved by the department of education. ~~After June 30,~~ 18803
~~2003, no head start program shall receive any funds from the state~~ 18804
~~unless each staff member employed by that program as a teacher is~~ 18805
~~working toward an associate degree of a type approved by the~~ 18806
~~department of education.~~ Beginning in fiscal year 2008, no head 18807
~~start~~ preschool program, school child program, or early learning 18808
program, shall receive any funds from the state unless every staff 18809
member employed by that program as a teacher has attained such a 18810
degree. 18811

Sec. 3301.32. (A)(1) The chief administrator of any head 18812
start agency shall request the superintendent of the bureau of 18813
criminal identification and investigation to conduct a criminal 18814
records check with respect to any applicant who has applied to the 18815
head start agency for employment as a person responsible for the 18816
care, custody, or control of a child. If the applicant does not 18817
present proof that the applicant has been a resident of this state 18818
for the five-year period immediately prior to the date upon which 18819
the criminal records check is requested or does not provide 18820
evidence that within that five-year period the superintendent has 18821
requested information about the applicant from the federal bureau 18822
of investigation in a criminal records check, the chief 18823
administrator shall request that the superintendent obtain 18824
information from the federal bureau of investigation as a part of 18825
the criminal records check for the applicant. If the applicant 18826
presents proof that the applicant has been a resident of this 18827
state for that five-year period, the chief administrator may 18828
request that the superintendent include information from the 18829
federal bureau of investigation in the criminal records check. 18830

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the chief administrator requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the head start agency shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the director of job and family services in accordance with division (E) of this section, no head start agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 18863
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 18864
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 18865
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 18866
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 18867
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 18868
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 18869
2925.06, or 3716.11 of the Revised Code, a violation of section 18870
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 18871
violation of section 2919.23 of the Revised Code that would have 18872
been a violation of section 2905.04 of the Revised Code as it 18873
existed prior to July 1, 1996, had the violation occurred prior to 18874
that date, a violation of section 2925.11 of the Revised Code that 18875
is not a minor drug possession offense, or felonious sexual 18876
penetration in violation of former section 2907.12 of the Revised 18877
Code; 18878

(b) A violation of an existing or former law of this state, 18879
any other state, or the United States that is substantially 18880
equivalent to any of the offenses or violations described in 18881
division (B)(1)(a) of this section. 18882

(2) A head start agency may employ an applicant conditionally 18883
until the criminal records check required by this section is 18884
completed and the agency receives the results of the criminal 18885
records check. If the results of the criminal records check 18886
indicate that, pursuant to division (B)(1) of this section, the 18887
applicant does not qualify for employment, the agency shall 18888
release the applicant from employment. 18889

(C)(1) Each head start agency shall pay to the bureau of 18890
criminal identification and investigation the fee prescribed 18891
pursuant to division (C)(3) of section 109.572 of the Revised Code 18892
for each criminal records check conducted in accordance with that 18893
section upon the request pursuant to division (A)(1) of this 18894

section of the chief administrator of the head start agency. 18895

(2) A head start agency may charge an applicant a fee for the 18896
costs it incurs in obtaining a criminal records check under this 18897
section. A fee charged under this division shall not exceed the 18898
amount of fees the agency pays under division (C)(1) of this 18899
section. If a fee is charged under this division, the agency shall 18900
notify the applicant at the time of the applicant's initial 18901
application for employment of the amount of the fee and that, 18902
unless the fee is paid, the head start agency will not consider 18903
the applicant for employment. 18904

(D) The report of any criminal records check conducted by the 18905
bureau of criminal identification and investigation in accordance 18906
with section 109.572 of the Revised Code and pursuant to a request 18907
made under division (A)(1) of this section is not a public record 18908
for the purposes of section 149.43 of the Revised Code and shall 18909
not be made available to any person other than the applicant who 18910
is the subject of the criminal records check or the applicant's 18911
representative, the head start agency requesting the criminal 18912
records check or its representative, and any court, hearing 18913
officer, or other necessary individual involved in a case dealing 18914
with the denial of employment to the applicant. 18915

(E) The director of job and family services shall adopt rules 18916
pursuant to Chapter 119. of the Revised Code to implement this 18917
section, including rules specifying circumstances under which a 18918
head start agency may hire a person who has been convicted of an 18919
offense listed in division (B)(1) of this section but who meets 18920
standards in regard to rehabilitation set by the director. 18921

(F) Any person required by division (A)(1) of this section to 18922
request a criminal records check shall inform each person, at the 18923
time of the person's initial application for employment, that the 18924
person is required to provide a set of impressions of the person's 18925

fingerprints 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.

(G) As used in this section:

(1) "Applicant" means a person who is under final
consideration for appointment or employment in a position with a
head start agency as a person responsible for the care, custody,
or control of a child.

(2) "Head start agency" ~~has the same meaning as in section~~
3301.31 of the Revised Code means an entity in this state that has
been approved to be an agency for purposes of the "Head Start
Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended.

(3) "Criminal records check" has the same meaning as in
section 109.572 of the Revised Code.

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

Sec. 3301.86. ~~The OhioReads classroom reading improvement~~
grants program is hereby established. ~~The OhioReads council shall~~
~~award grants under the program in accordance with the standards it~~
~~establishes under section 3301.91 of the Revised Code. The~~
~~OhioReads office is the fiscal agent for the program and shall pay~~
~~the grants awarded by the council~~ Under the program, the
department of education shall award reading intervention grants to
public schools and classrooms operated by city, local, and
exempted village school districts, by community schools, and by
educational service centers. The grants shall be used to fund the
engagement of volunteers to assist struggling students in grades
kindergarten through twelve improve their reading skills, to

improve reading outcomes in low-performing schools, and to 18956
facilitate closing the achievement gap between students of 18957
different subgroups. 18958

Sec. 3301.88. (A) A recipient of a grant under section 18959
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 18960
~~the OhioReads council~~ may request from the bureau of criminal 18961
identification and investigation a criminal records check on any 18962
individual, other than an individual described in division (B) of 18963
this section, who applies to participate in providing directly to 18964
children any program or service ~~through an entity approved by the~~ 18965
~~OhioReads council~~ ~~or~~ funded in whole or in part by the grant. If a 18966
recipient ~~or an entity approved by the OhioReads council~~ elects to 18967
request a criminal records check, the request shall consist of a 18968
request for the information a school district board of education 18969
may request under division (F)(2)(a) of section 109.57 of the 18970
Revised Code and shall be accompanied by one of the following 18971
identification options: 18972

(1) The form and standard impression sheet prescribed by the 18973
bureau under division (C) of section 109.572 of the Revised Code; 18974

(2) A form prescribed by the bureau on which is specified the 18975
individual's name, social security number, and date of birth. 18976

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 18977
~~council~~ shall not request a criminal records check under division 18978
(A) of this section with respect to any individual who furnishes 18979
the grant recipient ~~or an entity approved by the OhioReads council~~ 18980
with a certified copy of a report of a criminal records check 18981
completed by the bureau within one year prior to applying to 18982
participate in providing programs or services ~~through an entity~~ 18983
~~approved by the OhioReads council~~ ~~or~~ under an OhioReads the grant. 18984

(C) Except as provided in rules adopted under division (G)(2) 18985
of this section, a grant recipient ~~or an entity approved by the~~ 18986

~~OhioReads council~~ shall not allow an individual to participate in 18987
providing directly to children any program or service ~~through an~~ 18988
~~entity approved by the OhioReads council or~~ funded in whole or in 18989
part by the grant if the information requested under this section 18990
from the bureau indicates that the individual has ever pleaded 18991
guilty to or been found guilty by a jury or court of any of the 18992
following: 18993

(1) A felony; 18994

(2) A violation of section 2903.16, 2903.34, 2905.05, 18995
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25, 18996
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the 18997
Revised Code; a violation of section 2905.04 of the Revised Code 18998
as it existed prior to July 1, 1996; or a violation of section 18999
2919.23 of the Revised Code that would have been a violation of 19000
section 2905.04 of the Revised Code as it existed prior to July 1, 19001
1996, had it been committed prior to that date; 19002

(3) An offense of violence; 19003

(4) A theft offense, as defined in section 2913.01 of the 19004
Revised Code; 19005

(5) A drug abuse offense, as defined in section 2925.01 of 19006
the Revised Code; 19007

(6) A violation of an existing or former ordinance of a 19008
municipal corporation or law of the United States or another state 19009
that is substantively comparable to an offense listed in divisions 19010
(C)(1) to (5) of this section. 19011

(D) A grant recipient ~~or an entity approved by the OhioReads~~ 19012
~~council~~ that elects to request criminal records checks may 19013
conditionally allow an individual to participate in providing 19014
programs or services directly to children until the criminal 19015
records check is completed and the grant recipient ~~or an entity~~ 19016
~~approved by the OhioReads council~~ receives the results. If the 19017

results of the criminal records check indicate that the individual 19018
has been convicted of or pleaded guilty to an offense listed in 19019
division (C) of this section, the grant recipient ~~or an entity~~ 19020
~~approved by the OhioReads council~~ shall not allow the individual 19021
to further participate in providing directly to children any 19022
program or service ~~through an entity approved by the OhioReads~~ 19023
~~council~~ or funded in whole or in part by the grant, except as 19024
provided in the rules adopted under division (G)(2) of this 19025
section. 19026

(E) The report of any criminal records check conducted in 19027
accordance with division (F)(5) of section 109.57 of the Revised 19028
Code pursuant to a request under this section is not a public 19029
record for purposes of section 149.43 of the Revised Code. The 19030
report shall not be made available to any person other than the 19031
individual who is the subject of the criminal records check or the 19032
individual's representative, the grant recipient or the grant 19033
recipient's representative ~~or an entity approved by the OhioReads~~ 19034
~~council~~, and any court, hearing officer, or other necessary 19035
individual in a case dealing with the denial of the individual's 19036
participation in a program or service ~~through an entity approved~~ 19037
~~by the OhioReads council~~ or funded by an OhioReads a grant awarded 19038
under section 3301.86 of the Revised Code. 19039

(F) The ~~OhioReads office~~ department of education shall 19040
reimburse each grant recipient ~~or an entity approved by the~~ 19041
~~OhioReads council~~ for each criminal records check the actual 19042
amount paid by the grant recipient ~~or an entity approved by the~~ 19043
~~OhioReads council~~ for the portion of the criminal records check 19044
conducted by the bureau of criminal identification and 19045
investigation. Reimbursement shall be paid under this division 19046
only for criminal records checks on individuals who apply to 19047
participate in providing directly to children any program or 19048
service ~~through an entity approved by the OhioReads council~~ or 19049

funded in whole or in part by the grant. To receive it, the grant 19050
recipient ~~or an entity approved by the OhioReads council~~ must 19051
submit information to the ~~office~~ department in the form and manner 19052
required by the ~~office~~ department. The reimbursement is in 19053
addition to the grant awarded to the recipient under section 19054
3301.86 ~~or 3301.87~~ of the Revised Code. 19055

(G) The ~~department~~ state board of education shall adopt rules 19056
in accordance with Chapter 119. of the Revised Code: 19057

(1) Prescribing the form and manner in which grant recipients 19058
~~or an entity approved by the OhioReads council~~ must submit 19059
information to the ~~OhioReads office~~ department to receive 19060
reimbursement under division (F) of this section; 19061

(2) Specifying circumstances under which a grant recipient ~~or~~ 19062
~~an entity approved by the OhioReads council~~ may allow an 19063
individual whose criminal records check report indicates that the 19064
individual has been convicted of or pleaded guilty to an offense 19065
listed in division (C) of this section, but who meets standards in 19066
regard to rehabilitation set forth in the rules, to participate in 19067
providing directly to children any program or service ~~through an~~ 19068
~~entity approved by the OhioReads council or~~ funded in whole or in 19069
part by the grant. 19070

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the 19071
Revised Code: 19072

(A) An "eligible student" is a student who satisfies the 19073
conditions specified in section 3310.03 of the Revised Code. 19074

(B) "Parent" has the same meaning as in section 3313.98 of 19075
the Revised Code. 19076

(C) "Registered private school" means a nonpublic school 19077
registered with the superintendent of public instruction under 19078
section 3310.11 of the Revised Code to participate in the 19079

educational choice scholarship program. 19080

(D) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 19081
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(E) "School year" has the same meaning as in section 3313.62 of the Revised Code. 19084
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Sec. 3310.02. The educational choice scholarship program is hereby established. Under the program, the department of education annually shall pay scholarships in accordance with section 3310.08 of the Revised Code for up to the number of eligible students prescribed by the general assembly. If the number of students who apply for a scholarship exceeds the number prescribed by the general assembly, the department first shall award scholarships to eligible students who received scholarships in the prior school year, and then shall select students by lot to receive any remaining scholarships. 19086
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Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship program if the student satisfies all of the following conditions: 19096
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(1) The student's resident district is a school district that the department of education declared to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code in the department's most recent rating of school districts published prior to the first day of July of the school year for which a scholarship is sought. 19099
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(2) The student's resident district is not a district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. 19105
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(3) The student was enrolled in the student's resident district or in a community school established under Chapter 3314. 19108
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of the Revised Code during the school year immediately prior to 19110
the school year for which a scholarship is sought under the 19111
educational choice scholarship program for the first time. 19112

(B) A student who receives a scholarship under the 19113
educational choice scholarship program remains an eligible student 19114
and may continue to receive scholarships in subsequent school 19115
years until the student completes grade twelve, so long as the 19116
student's resident district remains the same, regardless of the 19117
district's future academic rating. 19118

(C) The superintendent shall cease awarding first-time 19119
scholarships for students whose resident district, in the most 19120
recent ratings of school districts published under section 3302.03 19121
of the Revised Code prior to the first day of July of the school 19122
year, ceases to be in a state of academic emergency or academic 19123
watch. However, students who have received scholarships in the 19124
prior school year remain eligible students pursuant to division 19125
(B) of this section. 19126

Sec. 3310.04. Any eligible student who is enrolled in a 19127
registered private school and for whom a scholarship under the 19128
educational choice scholarship program has been awarded shall be 19129
entitled to transportation to and from the registered private 19130
school by the student's resident district in the manner prescribed 19131
in section 3327.01 of the Revised Code. 19132

Sec. 3310.05. A scholarship under the educational choice 19133
scholarship program is not available for any student whose 19134
resident district is a school district in which the pilot project 19135
scholarship program is operating under sections 3313.974 to 19136
3313.979 of the Revised Code. 19137

Sec. 3310.06. It is the policy adopted by the general 19138

assembly that the educational choice scholarship program shall be 19139
construed as one of several educational options available for 19140
students enrolled in academic watch or academic emergency school 19141
districts. Students may be enrolled in the schools of the 19142
student's resident district, in a community school established 19143
under Chapter 3314. of the Revised Code, in the schools of another 19144
school district pursuant to an open enrollment policy adopted 19145
under section 3313.98 of the Revised Code, in a registered private 19146
school with or without a scholarship under the educational choice 19147
scholarship program, or in other schools as the law may provide. 19148

Sec. 3310.07. Any parent, or any student who is at least 19149
eighteen years of age, who is seeking a scholarship under the 19150
educational choice scholarship program shall notify the department 19151
of education of the student's and parent's names and address, the 19152
registered private school in which the student has been accepted 19153
for enrollment, and the tuition charged by the school. 19154

Sec. 3310.08. (A) The amount paid for an eligible student 19155
under the educational choice scholarship program shall be the 19156
lesser of the actual cost per pupil of the registered private 19157
school in which the student is enrolled, as reported by the school 19158
to the superintendent of public instruction under section 3310.13 19159
of the Revised Code, or the maximum amount prescribed in section 19160
3310.09 of the Revised Code. 19161

(B)(1) The department shall pay to the parent of each 19162
eligible student for whom a scholarship is awarded under the 19163
program, or to the student if at least eighteen years of age, 19164
periodic partial payments of the scholarship in the same 19165
proportion to the total scholarship amount and at the same times 19166
as the department makes payments to community schools under 19167
section 3314.08 of the Revised Code. 19168

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a registered private school prior to the end of the school year in the same manner as payments are reduced or terminated for students who withdraw from a community school before the end of a school year. 19169
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(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317. and, if necessary, sections 321.24 and 323.156 of the Revised Code the aggregate amount paid under division (B) of this section for all eligible students who are entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. 19174
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(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, the department shall proportionally reduce or cease making deductions for that student under division (C) of this section. 19180
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(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following: 19185
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(1) The district's state base-cost payment, as calculated under division (A) of section 3317.022 of the Revised Code, with the scholarship students included in the district's adjusted formula ADM; 19190
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(2) What the district's state base-cost payment would have been, as calculated under that division, if the scholarship students were not included in the district's adjusted formula ADM. 19194
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This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by 19197
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19199

the number of eligible students for whom deductions are made under 19200
division (C) of this section. 19201

Sec. 3310.09. (A) The maximum amount awarded to an eligible 19202
student in fiscal year 2007 under the educational choice 19203
scholarship program shall be as follows: 19204

(1) For grades kindergarten through four, four thousand 19205
dollars; 19206

(2) For grades five through eight, four thousand five hundred 19207
dollars; 19208

(3) For grades nine through twelve, five thousand dollars. 19209

(B) In fiscal year 2008 and in each fiscal year thereafter, 19210
the maximum amount awarded under the program shall be the 19211
applicable maximum amount awarded in the previous fiscal year 19212
increased by the rate of inflation, as measured by the rate of 19213
change in the consumer price index (all urban consumers, all 19214
items), prepared by the bureau of labor statistics of the United 19215
States department of labor, for the twelve-month period ending on 19216
the thirtieth day of June of the previous fiscal year. 19217

Sec. 3310.10. A scholarship awarded under section 3310.08 of 19218
the Revised Code may be used only to pay tuition to any registered 19219
private school. 19220

Sec. 3310.11. A nonpublic school shall not receive payments 19221
from a parent or student who is paid a scholarship under section 19222
3310.08 of the Revised Code until the chief administrator of the 19223
school registers the school with the superintendent of public 19224
instruction. The superintendent shall register any school that 19225
meets the following requirements: 19226

(A) The school indicates in writing its commitment to follow 19227

<u>all requirements for the educational choice scholarship program</u>	19228
<u>specified under sections 3310.01 to 3310.17 of the Revised Code.</u>	19229
<u>(B) The school meets minimum education standards prescribed</u>	19230
<u>by the state board of education and satisfies at least one of the</u>	19231
<u>following conditions:</u>	19232
<u>(1) The school is chartered by the state board under section</u>	19233
<u>3301.16 of the Revised Code.</u>	19234
<u>(2) The school is accredited by a national organization that</u>	19235
<u>accredits schools that teach grades kindergarten through twelve.</u>	19236
<u>(3) The school has been in continuous operation for not less</u>	19237
<u>than five years, during which time the school has served not fewer</u>	19238
<u>than two-thirds the number of grade levels that the school will</u>	19239
<u>serve as a registered private school.</u>	19240
<u>(C) The school does not discriminate on the basis of race,</u>	19241
<u>religion, national origin, or ethnic background.</u>	19242
<u>(D) If the school does not have positions available for all</u>	19243
<u>of the applicants who wish to enroll in the school under such</u>	19244
<u>scholarship, as provided in the school's regular enrollment</u>	19245
<u>criteria, the school fills the available positions on a random</u>	19246
<u>selection basis or a first-come first-served basis, or some</u>	19247
<u>combination of both, except that the school may give priority to</u>	19248
<u>students previously enrolled in the school or to students who live</u>	19249
<u>in the same household as a student currently or previously</u>	19250
<u>enrolled in the school.</u>	19251
<u>(E) If the school is not chartered by the state board under</u>	19252
<u>section 3301.16 of the Revised Code, the school agrees to comply</u>	19253
<u>with section 3319.39 of the Revised Code as if it were a school</u>	19254
<u>district.</u>	19255
<u>(F) The school agrees to retain on file accurate and complete</u>	19256
<u>documentation of the following:</u>	19257

<u>(1) Employee criminal records checks;</u>	19258
<u>(2) Student attendance records;</u>	19259
<u>(3) Records of tuition charges and payments for each student</u>	19260
<u>for whom a scholarship is paid under section 3310.08 of the</u>	19261
<u>Revised Code.</u>	19262
<u>Sec. 3310.12. Each registered private school shall file</u>	19263
<u>either of the following with the superintendent of public</u>	19264
<u>instruction:</u>	19265
<u>(A) A surety bond payable to the state in an amount equal to</u>	19266
<u>the greater of five hundred thousand dollars or the aggregate</u>	19267
<u>amount of scholarships paid under section 3310.08 of the Revised</u>	19268
<u>Code to students enrolled in the school in the previous school</u>	19269
<u>year;</u>	19270
<u>(B) An unconditional guarantee by a third party with a net</u>	19271
<u>worth of not less than ten million dollars, as determined by the</u>	19272
<u>auditor of state, of payment of any moneys that the school might</u>	19273
<u>owe to the state.</u>	19274
<u>Sec. 3310.13. (A) No registered private school shall charge</u>	19275
<u>any student whose family income is less than two hundred per cent</u>	19276
<u>of the federal poverty guidelines, as defined in section 5101.46</u>	19277
<u>of the Revised Code, a tuition fee that is greater than one</u>	19278
<u>hundred five per cent of the total amount paid for that student</u>	19279
<u>under section 3310.08 of the Revised Code.</u>	19280
<u>A registered private school may charge any other student who</u>	19281
<u>is paid a scholarship under that section the difference between</u>	19282
<u>the amount of the scholarship and the regular tuition charge of</u>	19283
<u>the school.</u>	19284
<u>(B) Each registered private school shall permit each eligible</u>	19285
<u>student's family, at the family's option, to provide volunteer</u>	19286

services in lieu of cash payment to pay all or part of the amount 19287
of the school's tuition not paid for by the scholarship paid under 19288
section 3310.08 of the Revised Code. 19289

(C) Each registered private school annually shall report to 19290
the superintendent of public instruction, in the manner prescribed 19291
by the superintendent, the actual cost per pupil of the school. 19292

Sec. 3310.14. Notwithstanding division (K) of section 19293
3301.0711 of the Revised Code, each registered private school that 19294
enrolls students awarded scholarships under sections 3310.01 to 19295
3310.17 of the Revised Code shall administer the achievement tests 19296
prescribed by section 3301.0710 of the Revised Code to each 19297
scholarship student in accordance with section 3301.0711 of the 19298
Revised Code. Nothing in this section requires a chartered 19299
nonpublic school to administer any achievement test, except for an 19300
Ohio graduation test prescribed by division (B) of section 19301
3301.0710 of the Revised Code, to any student enrolled in the 19302
school who is not a scholarship student. 19303

Sec. 3310.15. The superintendent of public instruction shall 19304
revoke the registration of any registered private school if, after 19305
a hearing, the superintendent determines that the school is in 19306
violation of any provision of section 3310.11, 3310.12, 3310.13, 19307
or 3310.14 of the Revised Code. 19308

Sec. 3310.16. (A) The state board of education shall adopt 19309
rules in accordance with Chapter 119. of the Revised Code 19310
prescribing procedures for the administration of the educational 19311
choice scholarship program that pertain to the following: 19312

(1) Registration of private schools; 19313

(2) Application for and determining eligibility for 19314
scholarships; 19315

<u>(3) Calculating, paying, and accounting for scholarship awards;</u>	19316
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<u>(4) Monitoring compliance with sections 3310.11 to 3310.14 of the Revised Code.</u>	19318
	19319
<u>(B) The state board and the department of education shall not require registered private schools to comply with any education laws or rules or other requirements that are not specified in sections 3310.01 to 3310.14 of the Revised Code and that otherwise would not apply to a nonpublic school.</u>	19320
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<u>Sec. 3310.17. The general assembly shall prescribe the number of students that may be selected each fiscal year for scholarships under the educational choice scholarship program.</u>	19325
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	19327
Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted	19328
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village school districts or members of the educational service 19346
centers' governing boards affected to be appointed by the boards 19347
of education or governing boards of such school districts and 19348
educational service centers. In such joint vocational school 19349
districts the number and terms of members of the joint vocational 19350
school district board of education and the allocation of a given 19351
number of members to each of the city and exempted village 19352
districts and educational service centers shall be determined in 19353
the plan for such district, provided that each such joint 19354
vocational school district board of education shall be composed of 19355
an odd number of members. 19356

(B) Notwithstanding division (A) of this section, a governing 19357
board of an educational service center that has members of its 19358
governing board serving on a joint vocational school district 19359
board of education may make a request to the joint vocational 19360
district board that the joint vocational school district plan be 19361
revised to provide for one or more members of boards of education 19362
of local school districts that are within the territory of the 19363
educational service district and within the joint vocational 19364
school district to serve in the place of or in addition to its 19365
educational service center governing board members. If agreement 19366
is obtained among a majority of the boards of education and 19367
governing boards that have a member serving on the joint 19368
vocational school district board of education and among a majority 19369
of the local school district boards of education included in the 19370
district and located within the territory of the educational 19371
service center whose board requests the substitution or addition, 19372
the state board of education may revise the joint vocational 19373
school district plan to conform with such agreement. 19374

(C) If the board of education of any school district or 19375
educational service center governing board included within a joint 19376
vocational district that has had its board or governing board 19377

membership revised under division (B) of this section requests the 19378
joint vocational school district board to submit to the state 19379
board of education a revised plan under which one or more joint 19380
vocational board members chosen in accordance with a plan revised 19381
under such division would again be chosen in the manner prescribed 19382
by division (A) of this section, the joint vocational board shall 19383
submit the revised plan to the state board of education, provided 19384
the plan is agreed to by a majority of the boards of education 19385
represented on the joint vocational board, a majority of the local 19386
school district boards included within the joint vocational 19387
district, and each educational service center governing board 19388
affected by such plan. The state board of education may revise the 19389
joint vocational school district plan to conform with the revised 19390
plan. 19391

(D) The vocational schools in such joint vocational school 19392
district shall be available to all youth of school age within the 19393
joint vocational school district subject to the rules adopted by 19394
the joint vocational school district board of education in regard 19395
to the standards requisite to admission. A joint vocational school 19396
district board of education shall have the same powers, duties, 19397
and authority for the management and operation of such joint 19398
vocational school district as is granted by law, except by this 19399
chapter and Chapters 124., 3317., 3323., and 3331. of the Revised 19400
Code, to a board of education of a city school district, and shall 19401
be subject to all the provisions of law that apply to a city 19402
school district, except such provisions in this chapter and 19403
Chapters 124., 3317., 3323., and 3331. of the Revised Code. 19404

(E) Where a governing board of an educational service center 19405
has been designated to serve as the joint vocational school 19406
district board of education, the educational service center 19407
superintendent shall be the executive officer for the joint 19408
vocational school district, and the governing board may provide 19409

for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under ~~division (D) of section 3313.202 of the Revised Code. No member of a board of a joint vocational school district who is purchasing any category of benefits under such section offered by a city, local, or exempted village school board or educational service center governing board, shall purchase the same category of benefits as a member of the joint vocational school board.~~

Each member of a joint vocational school district board may

be paid such compensation as the board provides by resolution for 19442
attendance at an approved training program, provided that such 19443
compensation shall not exceed sixty dollars per day for attendance 19444
at a training program three hours or fewer in length and one 19445
hundred twenty-five dollars a day for attendance at a training 19446
program longer than three hours in length. However, no board 19447
member shall be compensated for the same training program under 19448
this section and section 3313.12 of the Revised Code. 19449

Sec. 3313.12. Each member of the educational service center 19450
governing board may be paid such compensation as the governing 19451
board provides by resolution, provided that any such compensation 19452
shall not exceed one hundred twenty-five dollars a day plus 19453
mileage both ways, at the rate per mile provided by resolution of 19454
the governing board, for attendance at any meeting of the board. 19455
Such compensation and the expenses of the educational service 19456
center superintendent, itemized and verified, shall be paid from 19457
the educational service center governing board fund upon vouchers 19458
signed by the president of the governing board. 19459

The board of education of any city, local, or exempted 19460
village school district may provide by resolution for compensation 19461
of its members, provided that such compensation shall not exceed 19462
one hundred twenty-five dollars per member for meetings attended. 19463
The board may provide by resolution for the deduction of amounts 19464
payable for benefits under ~~division (D)~~ of section 3313.202 of the 19465
Revised Code. 19466

Each member of a district board or educational service center 19467
governing board may be paid such compensation as the respective 19468
board provides by resolution for attendance at an approved 19469
training program, provided that such compensation shall not exceed 19470
sixty dollars a day for attendance at a training program three 19471
hours or fewer in length and one hundred twenty-five dollars a day 19472

for attendance at a training program longer than three hours in 19473
length. 19474

~~Sec. 3313.202. (A) The board of education of a school 19475
district may procure and pay all or part of the cost of group term 19476
life, hospitalization, surgical care, or major medical insurance, 19477
disability, dental care, vision care, medical care, hearing aids, 19478
prescription drugs, sickness and accident insurance, group legal 19479
services, or a combination of any of the foregoing types of 19480
insurance or coverage, whether issued by an insurance company or a 19481
health insuring corporation duly licensed by this state, covering 19482
the teaching or nonteaching employees of the school district, or a 19483
combination of both, or the dependent children and spouses of such 19484
employees, provided if such coverage affects only the teaching 19485
employees of the district such coverage shall be with the consent 19486
of a majority of such employees of the school district, or if such 19487
coverage affects only the nonteaching employees of the district 19488
such coverage shall be with the consent of a majority of such 19489
employees. If such coverage is proposed to cover all the employees 19490
of a school district, both teaching and nonteaching employees, 19491
such coverage shall be with the consent of a majority of all the 19492
employees of a school district. A board of education shall 19493
continue to carry, on payroll records, all school employees whose 19494
sick leave accumulation has expired, or who are on a disability 19495
leave of absence or an approved leave of absence, for the purpose 19496
of group term life, hospitalization, surgical, major medical, or 19497
any other insurance. A board of education may pay all or part of 19498
such coverage except when such employees are on an approved leave 19499
of absence, or on a disability leave of absence for that period 19500
exceeding two years. As used in this section, "teaching employees" 19501
means any person employed in the public schools of this state in a 19502
position for which the person is required to have a certificate or 19503
license pursuant to sections 3319.22 to 3319.31 of the Revised 19504~~

~~Code. "Nonteaching employees" as used in this section means any 19505
person employed in the public schools of the state in a position 19506
for which the person is not required to have a certificate or 19507
license issued pursuant to sections 3319.22 to 3319.31 of the 19508
Revised Code. 19509~~

~~(B) The board of education of a school district may enter 19510
into an agreement with a jointly administered trust fund which 19511
receives contributions pursuant to a collective bargaining 19512
agreement entered into between the board and any collective 19513
bargaining representative of the employees of the board for the 19514
purpose of providing for self insurance of all risk in the 19515
provision of fringe benefits similar to those that may be paid 19516
pursuant to division (A) of this section, and may provide through 19517
the self insurance method specific fringe benefits as authorized 19518
by the rules of the board of trustees of the jointly administered 19519
trust fund. Benefits provided under this section include, but are 19520
not limited to, hospitalization, surgical care, major medical 19521
care, disability, dental care, vision care, medical care, hearing 19522
aids, prescription drugs, group life insurance, sickness and 19523
accident insurance, group legal services, or a combination of the 19524
above benefits, for the employees and their dependents. 19525~~

~~(C) Notwithstanding any other provision of the Revised Code, 19526
the board of education and any collective bargaining 19527
representative of employees of the board may agree in a collective 19528
bargaining agreement that any mutually agreed fringe benefit, 19529
including, but not limited to, hospitalization, surgical care, 19530
major medical care, disability, dental care, vision care, medical 19531
care, hearing aids, prescription drugs, group life insurance, 19532
sickness and accident insurance, group legal services, or a 19533
combination thereof, for employees and their dependents be 19534
provided through a mutually agreed upon contribution to a jointly 19535
administered trust fund. The amount, type, and structure of fringe 19536~~

~~benefits provided under this division are subject to the~~ 19537
~~determination of the board of trustees of the jointly administered~~ 19538
~~trust fund. Notwithstanding any other provision of the Revised~~ 19539
~~Code, competitive bidding does not apply to the purchase of fringe~~ 19540
~~benefits for employees under this division through a jointly~~ 19541
~~administered trust fund.~~ 19542

~~(D) Any elected or appointed member of the board of education~~ 19543
~~of a school district and the dependent children and spouse of the~~ 19544
~~member may be covered, at the option of the member, as an employee~~ 19545
~~of the school district under any benefit medical plan adopted~~ 19546
~~designed by the school employees health care board under this~~ 19547
~~section 9.901 of the Revised Code. The member shall pay to the~~ 19548
~~school district the amount certified all premiums for that~~ 19549
~~coverage under division (D)(1) or (2) of this section. Payments~~ 19550
~~for such coverage shall be made, in advance, in a manner~~ 19551
~~prescribed by the school employees health care board. The member's~~ 19552
~~exercise of an option to be covered under this section shall be in~~ 19553
~~writing, announced at a regular public meeting of the board of~~ 19554
~~education, and recorded as a public record in the minutes of the~~ 19555
~~board.~~ 19556

~~For the purposes of determining the cost to board members~~ 19557
~~under this division:~~ 19558

~~(1) In the case of a benefit plan purchased under division~~ 19559
~~(A) of this section, the provider of the benefits shall certify to~~ 19560
~~the board the provider's charge for coverage under each option~~ 19561
~~available to employees under that benefit plan;~~ 19562

~~(2) In the case of benefits provided under division (B) or~~ 19563
~~(C) of this section, the board of trustees of the jointly~~ 19564
~~administered trust fund shall certify to the board of education~~ 19565
~~the trustees' charge for coverage under each option available to~~ 19566
~~employees under each benefit plan.~~ 19567

~~(E) The board may provide the benefits described in this section through an individual self insurance program or a joint self insurance program as provided in section 9.833 of the Revised Code.~~

Sec. 3313.207. As used in sections 3313.207 to 3313.209 of the Revised Code:

(A) "Children" means children who are enrolled in kindergarten or who are of compulsory school age.

(B) "Latchkey program" means a program under which children are provided with child care during a fiscal year at any time outside of regular school hours. A program that contains any religious content, that uses any religious materials, or that in any way promotes or furthers any religious beliefs is not a latchkey program.

~~(C) "School district" means a city, local, or exempted village school district.~~

~~(D)~~ "Program provider" means any agency, organization, or individual, licensed under Chapter 5104. of the Revised Code or exempted from the licensing requirements of that chapter.

~~(E)~~(D) "Ancillary services" means any of the following:

(1) Space in a building that is owned or controlled by a school district and that is used for other school district purposes in addition to latchkey programs;

(2) Utilities furnished in conjunction with such space;

(3) Transportation to a latchkey program on regular school buses.

Sec. 3313.208. A board of education of a school district or the governing board of an educational service center may assess

the need for latchkey programs in its district or territory and 19596
determine the best and most efficient manner of providing latchkey 19597
programs to children residing in the district or territory. Prior 19598
to operating any latchkey program, making any payments, or 19599
providing any employees or ancillary services under sections 19600
3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ 19601
shall provide notification to parents and other interested parties 19602
that the board is considering ~~district~~ participation in the 19603
provision of latchkey programs and shall adopt a policy ensuring 19604
public input on the board's decision whether or not to 19605
participate, as well as any decisions concerning the district's or 19606
service center's role in the implementation and funding of any 19607
latchkey programs if the board does decide to participate. The 19608
policy shall also include provision for regular, periodic public 19609
input in the evaluation of any school district or service center 19610
participation in the provision of latchkey programs. 19611

A board ~~of education~~ may ~~operate~~ provide a latchkey program, 19612
subject to the following limitations: 19613

(A) The program shall be maintained and operated and pupils 19614
shall be admitted pursuant to rules adopted by the board; 19615

(B) Fees or tuition, in amounts determined by the board, may 19616
be charged for participation in the program and shall be deposited 19617
in a special fund; 19618

~~(C) The board shall not expend any money from the general 19619
fund of the district for the program, except as follows: 19620~~

~~(1) The board may expend any money in the district's general 19621
fund resulting from an appropriation of the general assembly that 19622
specifically permits the expenditure of such appropriated funds 19623
for such a program. 19624~~

~~(2) The board may provide ancillary services for the program 19625
notwithstanding the fact that some portions of such services may 19626~~

~~be supported by money from the district's general fund.~~ 19627

Sec. 3313.209. (A) A board of education of a school district 19628
that does not ~~operate~~ provide a latchkey program may provide 19629
ancillary services to and may make payments to any program 19630
provider that operates a latchkey program that enrolls one or more 19631
children who are residents of the school district. 19632

(B) A board of education of a school district that does not 19633
~~operate~~ provide a latchkey program and that does not make payments 19634
under division (A) of this section may furnish to any person or 19635
entity that operates a latchkey program ancillary services or 19636
employees for use solely in conjunction with the program's 19637
operation. 19638

(C) ~~No board of education shall expend any money from the~~ 19639
~~general fund of the district pursuant to division (A) or (B) of~~ 19640
~~this section, except as follows:~~ 19641

~~(1) The board may expend any money in the district's general~~ 19642
~~fund resulting from an appropriation of the general assembly that~~ 19643
~~specifically permits the expenditure of such appropriated funds~~ 19644
~~for latchkey programs.~~ 19645

~~(2) The board may provide ancillary services pursuant to~~ 19646
~~division (A) or (B) of this section notwithstanding the fact that~~ 19647
~~some portion of such services may be supported by money from the~~ 19648
~~district's general fund.~~ 19649

~~(D)~~ A board of education shall enter into a contract with a 19650
program provider as a condition for making any payments or 19651
furnishing any ancillary services or employees authorized by 19652
division (A) or (B) of this section. 19653

Sec. 3313.33. (A) Conveyances made by a board of education 19654
shall be executed by the president and treasurer thereof. 19655

(B) Except as provided in division (C) of this section, no member of the board shall have, directly or indirectly, any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which the person is a member. No contract shall be binding upon any board unless it is made or authorized at a regular or special meeting of such board.

(C) A member of the board may have a pecuniary interest in a contract of the board if all of the following apply:

(1) The member's pecuniary interest in that contract is that the member is employed by a political subdivision, instrumentality, or agency of the state that is contracting with the board;

(2) The member does not participate in any discussion or debate regarding the contract or vote on the contract;

(3) The member files with the school district treasurer an affidavit stating the member's exact employment status with the political subdivision, instrumentality, or agency contracting with the board.

(D) This section does not apply where a member of the board, being a shareholder of a corporation but not being an officer or director thereof, owns not in excess of five per cent of the stock of such corporation. If a stockholder desires to avail self of the exception, before entering upon such contract such person shall first file with the treasurer an affidavit stating the stockholder's exact status and connection with said corporation.

This section does not apply where a member of the board elects to be covered by a benefit medical plan ~~of the school district~~ under ~~division (D) of~~ section 3313.202 of the Revised Code.

Sec. 3313.489. (A) The superintendent of public instruction

shall examine each ~~spending plan and appropriations measure~~ 19686
five-year projection of revenues and expenditures submitted under 19687
section 5705.391 of the Revised Code and shall determine whether 19688
the information contained therein, together with any other 19689
relevant information, indicates that the district may be 19690
financially unable to operate its instructional program on all 19691
days set forth in its adopted school calendars and pay all 19692
obligated expenses during the current fiscal year. If a board of 19693
education has not adopted a school calendar for the school year 19694
beginning on the first day of July of the current fiscal year at 19695
the time an examination is required under this division, the 19696
superintendent shall examine the ~~spending plan and appropriations~~ 19697
~~measure~~ five-year projection and determine whether the district 19698
may be financially unable to pay all obligated expenses and 19699
operate its instructional program for the number of days on which 19700
instruction was held in the preceding fiscal year. 19701

(B) If the superintendent of public instruction determines 19702
pursuant to division (A) of this section that a school district 19703
may be financially unable to operate its instructional program on 19704
all days required by such division and pay all obligated expenses 19705
during the current fiscal year, the superintendent shall provide 19706
written notification of such determination to the president of the 19707
district's board of education and the auditor of state. 19708

(C) This section does not apply to a school district declared 19709
to be under a fiscal emergency pursuant to division (B) of section 19710
3316.03 of the Revised Code. 19711

Sec. 3313.975. As used in this section and in sections 19712
3313.975 to 3313.979 of the Revised Code, "the pilot project 19713
school district" or "the district" means any school district 19714
included in the pilot project scholarship program pursuant to this 19715
section. 19716

(A) The superintendent of public instruction shall establish 19717
a pilot project scholarship program and shall include in such 19718
program any school districts that are or have ever been under 19719
federal court order requiring supervision and operational 19720
management of the district by the state superintendent. The 19721
program shall provide for a number of students residing in any 19722
such district to receive scholarships to attend alternative 19723
schools, and for an equal number of students to receive tutorial 19724
assistance grants while attending public school in any such 19725
district. 19726

(B) The state superintendent shall establish an application 19727
process and deadline for accepting applications from students 19728
residing in the district to participate in the scholarship 19729
program. In the initial year of the program students may only use 19730
a scholarship to attend school in grades kindergarten through 19731
third. 19732

The state superintendent shall award as many scholarships and 19733
tutorial assistance grants as can be funded given the amount 19734
appropriated for the program. In no case, however, shall more than 19735
fifty per cent of all scholarships awarded be used by students who 19736
were enrolled in a nonpublic school during the school year of 19737
application for a scholarship. 19738

(C)(1) The pilot project program shall continue in effect 19739
each year that the general assembly has appropriated sufficient 19740
money to fund scholarships and tutorial assistance grants. In each 19741
year the program continues, no new students may receive 19742
scholarships unless they are enrolled in ~~grade~~ grades 19743
kindergarten, ~~one, two, or three~~ to eight. However, any student 19744
who has received a scholarship the preceding year may continue to 19745
receive one until the student has completed grade ~~eight~~ ten. 19746
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who 19747
previously has received a scholarship may receive a scholarship in 19748

grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic 19749
year, a student who previously has received a scholarship may 19750
receive a scholarship in grade ~~ten~~ twelve. 19751

(2) If the general assembly discontinues the scholarship 19752
program, all students who are attending an alternative school 19753
under the pilot project shall be entitled to continued admittance 19754
to that specific school through all grades ~~up to the tenth grade~~ 19755
that are provided in such school, under the same conditions as 19756
when they were participating in the pilot project. The state 19757
superintendent shall continue to make scholarship payments in 19758
accordance with division (A) or (B) of section 3313.979 of the 19759
Revised Code for students who remain enrolled in an alternative 19760
school under this provision in any year that funds have been 19761
appropriated for this purpose. 19762

If funds are not appropriated, the tuition charged to the 19763
parents of a student who remains enrolled in an alternative school 19764
under this provision shall not be increased beyond the amount 19765
equal to the amount of the scholarship plus any additional amount 19766
charged that student's parent in the most recent year of 19767
attendance as a participant in the pilot project, except that 19768
tuition for all the students enrolled in such school may be 19769
increased by the same percentage. 19770

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 19771
the Revised Code, if the pilot project school district experiences 19772
a decrease in enrollment due to participation in a state-sponsored 19773
scholarship program pursuant to sections 3313.974 to 3313.979 of 19774
the Revised Code, the district board of education may enter into 19775
an agreement with any teacher it employs to provide to that 19776
teacher severance pay or early retirement incentives, or both, if 19777
the teacher agrees to terminate the employment contract with the 19778
district board, provided any collective bargaining agreement in 19779
force pursuant to Chapter 4117. of the Revised Code does not 19780

prohibit such an agreement for termination of a teacher's 19781
employment contract. 19782

Sec. 3313.976. (A) No private school may receive scholarship 19783
payments from parents pursuant to section 3313.979 of the Revised 19784
Code until the chief administrator of the private school registers 19785
the school with the superintendent of public instruction. The 19786
state superintendent shall register any school that meets the 19787
following requirements: 19788

(1) The school is located within the boundaries of the pilot 19789
project school district; 19790

(2) The school indicates in writing its commitment to follow 19791
all requirements for a state-sponsored scholarship program 19792
specified under sections 3313.974 to 3313.979 of the Revised Code, 19793
including, but not limited to, the requirements for admitting 19794
students pursuant to section 3313.977 of the Revised Code; 19795

(3) The school meets all state minimum standards for 19796
chartered nonpublic schools in effect on July 1, 1992, except that 19797
the state superintendent at the superintendent's discretion may 19798
register nonchartered nonpublic schools meeting the other 19799
requirements of this division; 19800

(4) The school does not discriminate on the basis of race, 19801
religion, or ethnic background; 19802

(5) The school enrolls a minimum of ten students per class or 19803
a sum of at least twenty-five students in all the classes offered; 19804

(6) The school does not advocate or foster unlawful behavior 19805
or teach hatred of any person or group on the basis of race, 19806
ethnicity, national origin, or religion; 19807

(7) The school does not provide false or misleading 19808
information about the school to parents, students, or the general 19809
public; 19810

(8) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of ten per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(9) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving a seventy-five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of the difference between the actual tuition charge of the school and seventy-five per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families of students in grades nine ~~and ten~~ through twelve receiving a scholarship in excess of the actual tuition charge of the school less seventy-five or ninety per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, as applicable, excluding any increase described in division (C)(2) of that section.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division

(A) of this section. 19843

(C) Any public school located in a school district adjacent 19844
to the pilot project district may receive scholarship payments on 19845
behalf of parents pursuant to section 3313.979 of the Revised Code 19846
if the superintendent of the district in which such public school 19847
is located notifies the state superintendent prior to the first 19848
day of March that the district intends to admit students from the 19849
pilot project district for the ensuing school year pursuant to 19850
section 3327.06 of the Revised Code. 19851

(D) Any parent wishing to purchase tutorial assistance from 19852
any person or governmental entity pursuant to the pilot project 19853
program under sections 3313.974 to 3313.979 of the Revised Code 19854
shall apply to the state superintendent. The state superintendent 19855
shall approve providers who appear to possess the capability of 19856
furnishing the instructional services they are offering to 19857
provide. 19858

Sec. 3313.977. (A)(1) Each registered private school shall 19859
admit students to kindergarten and first, second, and third grades 19860
in accordance with the following priorities: 19861

(a) Students who were enrolled in the school during the 19862
preceding year; 19863

(b) Siblings of students enrolled in the school during the 19864
preceding year, at the discretion of the school; 19865

(c) Children from low-income families attending school or 19866
residing in the school district in which the school is located 19867
until the number of such students in each grade equals the number 19868
that constituted twenty per cent of the total number of students 19869
enrolled in the school during the preceding year in such grade. 19870
Admission of such twenty per cent shall be by lot from among all 19871
low-income family applicants who apply prior to the fifteenth day 19872

of February prior to admission. 19873

(d) All other applicants residing anywhere, provided that all 19874
remaining available spaces shall be filled from among such 19875
applicants by lot. 19876

Children from low-income families not selected by lot under 19877
division (A)(1)(c) of this section shall be included in the 19878
lottery of all remaining applicants pursuant to division (A)(1)(d) 19879
of this section. 19880

(2) Each registered private school shall first admit to 19881
grades four through ~~ten~~ twelve students who were enrolled in the 19882
school during the preceding year. Any remaining spaces for 19883
students in these grades may be filled as determined by the 19884
school. 19885

(B) Notwithstanding division (A) of this section, except 19886
where otherwise prohibited by federal law, a registered private 19887
school may elect to admit students of only one gender and may deny 19888
admission to any separately educated handicapped student. 19889

(C) If a scholarship student who has been accepted in 19890
accordance with this section fails to enroll in the school for any 19891
reason or withdraws from the school during the school year for any 19892
reason, the school may elect to replace such student with another 19893
scholarship student only by first offering the admission to any 19894
low-income scholarship students who filed applications by the 19895
preceding fifteenth day of February and who were not accepted at 19896
that time due to space limitations. 19897

Sec. 3313.978. (A) Annually by the first day of November, the 19898
superintendent of public instruction shall notify the pilot 19899
project school district of the number of initial scholarships that 19900
the state superintendent will be awarding in each of grades 19901
kindergarten through third. 19902

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

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

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

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

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

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

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

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

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

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose

family income is at or above two hundred per cent of the maximum
income level established by the state superintendent for
low-income families shall qualify for seventy-five per cent of the
grant amount and students whose family income is below two hundred
per cent of that maximum income level shall qualify for ninety per
cent of the grant amount.

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(C)(1) In the case of basic scholarships for students in
grades kindergarten through eight, the scholarship amount shall
not exceed the lesser of the tuition charges of the alternative
school the scholarship recipient attends or an amount established
by the state superintendent not in excess of three thousand
dollars.

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In the case of basic scholarships for students in grades nine
~~and ten~~ through twelve, the scholarship amount shall not exceed
the lesser of the tuition charges of the alternative school the
scholarship recipient attends or an amount established by the
state superintendent not in excess of two thousand seven hundred
dollars.

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

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

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(4) No scholarship or tutorial assistance grant shall be

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awarded unless the state superintendent determines that
twenty-five or ten per cent, as applicable, of the amount
specified for such scholarship or grant pursuant to division
(C)(1), (2), or (3) of this section will be furnished by a
political subdivision, a private nonprofit or for profit entity,
or another person. Only seventy-five or ninety per cent of such
amounts, as applicable, shall be paid from state funds pursuant to
section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state
superintendent shall estimate the maximum per-pupil scholarship
amounts for the ensuing school year. The state superintendent
shall make this estimate available to the general public at the
offices of the district board of education together with the forms
required by division (D)(2) of this section.

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

Sec. 3313.98. Notwithstanding division (D) of section 3311.19
and division (D) of section 3311.52 of the Revised Code, the
provisions of this section and sections 3313.981 to 3313.983 of
the Revised Code that apply to a city school district do not apply
to a joint vocational or cooperative education school district
unless expressly specified.

(A) As used in this section and sections 3313.981 to 3313.983

of the Revised Code:	20028
(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:	20029 20030
(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues a shared parenting decree.	20031 20032 20033 20034 20035 20036 20037 20038 20039
(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.	20040 20041 20042 20043
(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.	20044 20045
(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.	20046 20047 20048
(3) "Adjacent district" means a city, exempted village, or local school district having territory that abuts the territory of a district adopting a resolution under this section.	20049 20050 20051
(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.	20052 20053 20054
(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also	20055 20056 20057

enrolls in a joint vocational school district that does not
contain the territory of the district for which that student is a
native student and does contain the territory of the city,
exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section
3317.02 of the Revised Code.

(7) "Adjusted formula amount" means the following:

(a) In fiscal year 2006, the "adjusted formula amount" shall
be the formula amount multiplied by the cost-of-doing-business
factor for a district defined in section 3317.02 of the Revised
Code;

(b) In fiscal year 2007 and thereafter, the "adjusted formula
amount" shall be the greater of the following:

(i) The fiscal year 2006 formula amount multiplied by the
fiscal year 2006 cost-of-doing-business factor for a district
defined in section 3317.02 of the Revised Code;

(ii) The sum of the current formula amount plus the per pupil
amount of the base funding supplements specified in divisions
(B)(1) to (4) of section 3317.012 of the Revised Code.

(8) "Poverty line" means the poverty line established by the
director of the United States office of management and budget as
revised by the director of the office of community services in
accordance with section 673(2) of the "Community Services Block
Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.

(9) "IEP" means an individualized education program defined
by division (E) of section 3323.01 of the Revised Code.

(10) "Other district" means a city, exempted village, or
local school district having territory outside of the territory of
a district adopting a resolution under this section.

(11) "Other district student" means a student entitled under

section 3313.64 or 3313.65 of the Revised Code to attend school in 20088
an other district. 20089

(12) "Other district joint vocational student" means a 20090
student who is enrolled in any city, exempted village, or local 20091
school district and who also enrolls in a joint vocational school 20092
district that does not contain the territory of the district for 20093
which that student is a native student in accordance with a policy 20094
adopted under section 3313.983 of the Revised Code. 20095

(B)(1) The board of education of each city, local, and 20096
exempted village school district shall adopt a resolution 20097
establishing for the school district one of the following 20098
policies: 20099

(a) A policy that entirely prohibits the enrollment of 20100
students from adjacent districts or other districts, other than 20101
students for whom tuition is paid in accordance with section 20102
3317.08 of the Revised Code; 20103

(b) A policy that permits enrollment of students from all 20104
adjacent districts in accordance with policy statements contained 20105
in the resolution; 20106

(c) A policy that permits enrollment of students from all 20107
other districts in accordance with policy statements contained in 20108
the resolution. 20109

(2) A policy permitting enrollment of students from adjacent 20110
or from other districts, as applicable, shall provide for all of 20111
the following: 20112

(a) Application procedures, including deadlines for 20113
application and for notification of students and the 20114
superintendent of the applicable district whenever an adjacent or 20115
other district student's application is approved. 20116

(b) Procedures for admitting adjacent or other district 20117

applicants free of any tuition obligation to the district's	20118
schools, including, but not limited to:	20119
(i) The establishment of district capacity limits by grade	20120
level, school building, and education program;	20121
(ii) A requirement that all native students wishing to be	20122
enrolled in the district will be enrolled and that any adjacent or	20123
other district students previously enrolled in the district shall	20124
receive preference over first-time applicants;	20125
(iii) Procedures to ensure that an appropriate racial balance	20126
is maintained in the district schools.	20127
(C) Except as provided in section 3313.982 of the Revised	20128
Code, the procedures for admitting adjacent or other district	20129
students, as applicable, shall not include:	20130
(1) Any requirement of academic ability, or any level of	20131
athletic, artistic, or other extracurricular skills;	20132
(2) Limitations on admitting applicants because of	20133
handicapping conditions, except that a board may refuse to admit a	20134
student receiving services under Chapter 3323. of the Revised	20135
Code, if the services described in the student's IEP are not	20136
available in the district's schools;	20137
(3) A requirement that the student be proficient in the	20138
English language;	20139
(4) Rejection of any applicant because the student has been	20140
subject to disciplinary proceedings, except that if an applicant	20141
has been suspended or expelled by the student's district for ten	20142
consecutive days or more in the term for which admission is sought	20143
or in the term immediately preceding the term for which admission	20144
is sought, the procedures may include a provision denying	20145
admission of such applicant.	20146
(D)(1) Each school board permitting only enrollment of	20147

adjacent district students shall provide information about the 20148
policy adopted under this section, including the application 20149
procedures and deadlines, to the superintendent and the board of 20150
education of each adjacent district and, upon request, to the 20151
parent of any adjacent district student. 20152

(2) Each school board permitting enrollment of other district 20153
students shall provide information about the policy adopted under 20154
this section, including the application procedures and deadlines, 20155
upon request, to the board of education of any other school 20156
district or to the parent of any student anywhere in the state. 20157

(E) Any school board shall accept all credits toward 20158
graduation earned in adjacent or other district schools by an 20159
adjacent or other district student or a native student. 20160

(F)(1) No board of education may adopt a policy discouraging 20161
or prohibiting its native students from applying to enroll in the 20162
schools of an adjacent or any other district that has adopted a 20163
policy permitting such enrollment, except that: 20164

(a) A district may object to the enrollment of a native 20165
student in an adjacent or other district in order to maintain an 20166
appropriate racial balance. 20167

(b) The board of education of a district receiving funds 20168
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 20169
may adopt a resolution objecting to the enrollment of its native 20170
students in adjacent or other districts if at least ten per cent 20171
of its students are included in the determination of the United 20172
States secretary of education made under section 20 U.S.C.A. 20173
238(a). 20174

(2) If a board objects to enrollment of native students under 20175
this division, any adjacent or other district shall refuse to 20176
enroll such native students unless tuition is paid for the 20177
students in accordance with section 3317.08 of the Revised Code. 20178

An adjacent or other district enrolling such students may not	20179
receive funding for those students in accordance with section	20180
3313.981 of the Revised Code.	20181
(G) The state board of education shall monitor school	20182
districts to ensure compliance with this section and the	20183
districts' policies. The board may adopt rules requiring uniform	20184
application procedures, deadlines for application, notification	20185
procedures, and record-keeping requirements for all school boards	20186
that adopt policies permitting the enrollment of adjacent or other	20187
district students, as applicable. If the state board adopts such	20188
rules, no school board shall adopt a policy that conflicts with	20189
those rules.	20190
(H) A resolution adopted by a board of education under this	20191
section that entirely prohibits the enrollment of students from	20192
adjacent and from other school districts does not abrogate any	20193
agreement entered into under section 3313.841 or 3313.92 of the	20194
Revised Code or any contract entered into under section 3313.90 of	20195
the Revised Code between the board of education adopting the	20196
resolution and the board of education of any adjacent or other	20197
district or prohibit these boards of education from entering into	20198
any such agreement or contract.	20199
(I) Nothing in this section shall be construed to permit or	20200
require the board of education of a city, exempted village, or	20201
local school district to exclude any native student of the	20202
district from enrolling in the district.	20203
Sec. 3314.013. (A)(1) Until July 1, 2000, no more than	20204
seventy-five contracts between start-up schools and the state	20205
board of education may be in effect outside the pilot project area	20206
at any time under this chapter.	20207
(2) After July 1, 2000, and until July 1, 2001, no more than	20208

one hundred twenty-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under this chapter.

(3) This division applies only to contracts between start-up schools and the state board of education and contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.

Until July 1, 2005, not more than two hundred twenty-five contracts to which this division applies may be in effect at any time under this chapter.

(4) This division applies only to contracts between start-up schools and entities described in divisions (C)(1)(b) to (d) and (f) of section 3314.02 of the Revised Code. However this division does not apply to any start-up school the mission of which, as specified under division (A)(2) of section 3314.03 of the Revised Code, is solely to serve dropouts.

After July 1, 2005, and until July 1, 2007, not more than two hundred fifty contracts to which this division applies may be in effect at any time under this chapter.

(5) This division applies only to contracts between a start-up school and the board of education of the school district in which the school is or is proposed to be located. However this division does not apply to any start-up school the mission of which, as specified under division (A)(2) of section 3314.03 of the Revised Code, is solely to serve dropouts.

Until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than twenty-five plus the number of such contracts in effect on the effective date of this amendment.

(6) No entity described in division (C)(1) of section 3314.02

of the Revised Code shall enter into a contract with an internet- 20239
or computer-based community school for one year after the 20240
effective date of this amendment, except as follows: 20241

(a) Any entity described in division (C)(1) of that section 20242
may renew a contract that the entity entered into with an 20243
internet- or computer-based community school prior to the 20244
effective date of this amendment. 20245

(b) Any entity described in divisions (C)(1)(a) to (e) of 20246
that section may assume sponsorship of an existing internet- or 20247
computer-based community school that was formerly sponsored by 20248
another entity and may enter into a contract with that community 20249
school in accordance with section 3314.03 of the Revised Code. 20250

(c) Any entity described in division (C)(1)(f) of that 20251
section may assume sponsorship of an existing internet- or 20252
computer-based community school in accordance with division (A)(7) 20253
of this section and may enter into a contract with that community 20254
school in accordance with section 3314.03 of the Revised Code. 20255

(7) Until July 1, 2005, any entity described in division 20256
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 20257
a community school that formerly was sponsored by the state board 20258
of education under division (C)(1)(d) of that section, as it 20259
existed prior to April 8, 2003. After July 1, 2005, any such 20260
entity may assume sponsorship of any existing community school, 20261
and may sponsor any new community school that is not an internet- 20262
or computer-based community school. Beginning one year after the 20263
effective date of this amendment, any such entity may sponsor a 20264
new internet- or computer-based community school. 20265

(8) Nothing in division (A) of this section prohibits a 20266
community school from increasing the number of grade levels it 20267
offers. 20268

(B) Within twenty-four hours of a request by any person, the 20269

superintendent of public instruction shall indicate the number of 20270
preliminary agreements for start-up schools currently outstanding 20271
and the number of contracts for these schools in effect at the 20272
time of the request. 20273

(C) It is the intent of the general assembly to consider 20274
whether to provide limitations on the number of start-up community 20275
schools after July 1, 2001, following its examination of the 20276
results of the studies by the legislative office of education 20277
oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of 20278
the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 20279
No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. 20280
No. 770 of the 122nd general assembly. 20281

Sec. 3314.015. (A) The department of education shall be 20282
responsible for the oversight of sponsors of the community schools 20283
established under this chapter and shall provide technical 20284
assistance to schools and sponsors in their compliance with 20285
applicable laws and the terms of the contracts entered into under 20286
section 3314.03 of the Revised Code and in the development and 20287
start-up activities of those schools. In carrying out its duties 20288
under this section, the department shall do all of the following: 20289

(1) In providing technical assistance to proposing parties, 20290
governing authorities, and sponsors, conduct training sessions and 20291
distribute informational materials; 20292

(2) Approve entities to be sponsors of community schools and 20293
monitor the effectiveness of those sponsors in their oversight of 20294
the schools with which they have contracted; 20295

(3) By December thirty-first of each year, issue a report to 20296
the governor, the speaker of the house of representatives, the 20297
president of the senate, and the chairpersons of the house and 20298
senate committees principally responsible for education matters 20299

regarding the effectiveness of academic programs, operations, and 20300
legal compliance and of the financial condition of all community 20301
schools established under this chapter; 20302

(4) From time to time, make legislative recommendations to 20303
the general assembly designed to enhance the operation and 20304
performance of community schools. 20305

(B)(1) No entity listed in division (C)(1) of section 3314.02 20306
of the Revised Code shall enter into a preliminary agreement under 20307
division (C)(2) of section 3314.02 of the Revised Code until it 20308
has received approval from the department of education to sponsor 20309
community schools under this chapter and has entered into a 20310
written agreement with the department regarding the manner in 20311
which the entity will conduct such sponsorship. The department 20312
shall adopt in accordance with Chapter 119. of the Revised Code 20313
rules containing criteria, procedures, and deadlines for 20314
processing applications for such approval, for oversight of 20315
sponsors, for revocation of the approval of sponsors, and for 20316
entering into written agreements with sponsors. The rules shall 20317
require an entity to submit evidence of the entity's ability and 20318
willingness to comply with the provisions of division (D) of 20319
section 3314.03 of the Revised Code. The rules also shall require 20320
entities approved as sponsors on and after the effective date of 20321
this amendment to demonstrate a record of financial responsibility 20322
and successful implementation of educational programs. If an 20323
entity seeking approval on or after the effective date of this 20324
amendment to sponsor community schools in this state sponsors or 20325
operates schools in another state, at least one of the schools 20326
sponsored or operated by the entity must be comparable to or 20327
better than the performance of Ohio schools in a state of academic 20328
watch under section 3302.03 of the Revised Code, as determined by 20329
the department. 20330

An entity described in division (C)(1)(a), (b), (c), (d), or 20331

(f) of section 3314.02 of the Revised Code that is approved to 20332
sponsor community schools may enter into ~~any number of~~ preliminary 20333
agreements and sponsor ~~any number of~~ not more than thirty-five 20334
schools, provided each school and the contract for sponsorship 20335
meets the requirements of this chapter, except that the department 20336
on a case-by-case basis may permit an entity to sponsor up to 20337
fifty schools. However, any school the mission of which, as 20338
specified under division (A)(2) of section 3314.03 of the Revised 20339
Code, is solely to serve dropouts shall not be counted toward the 20340
limit imposed by this paragraph. This paragraph does not apply to 20341
entities described in division (C)(1)(e) of section 3314.02 of the 20342
Revised Code. 20343

Upon approval of an entity to be a sponsor under this 20344
division, the department shall notify the entity of the number of 20345
schools the entity may sponsor. If at any time a sponsor exceeds 20346
the number of schools it may sponsor under this division, the 20347
department shall assume sponsorship of the schools in excess of 20348
the sponsor's authorized number in accordance with division (C) of 20349
this section. Those schools for which the department assumes 20350
sponsorship shall be the schools that most recently entered into 20351
contracts with the sponsor under section 3314.03 of the Revised 20352
Code. 20353

(2) The department of education shall determine, pursuant to 20354
criteria adopted by rule of the department, whether the mission 20355
proposed to be specified in the contract of a community school to 20356
be sponsored by a state university board of trustees or the 20357
board's designee under division (C)(1)(e) of section 3314.02 of 20358
the Revised Code complies with the requirements of that division. 20359
Such determination of the department is final. 20360

(3) The department of education shall determine, pursuant to 20361
criteria adopted by rule of the department, if any tax-exempt 20362
entity under section 501(c)(3) of the Internal Revenue Code that 20363

is proposed to be a sponsor of a community school is an 20364
education-oriented entity for purpose of satisfying the condition 20365
prescribed in division (C)(1)~~(e)(iv)~~(f)(iii) of section 3314.02 of 20366
the Revised Code. Such determination of the department is final. 20367

(C) If at any time the state board of education finds that a 20368
sponsor is not in compliance or is no longer willing to comply 20369
with its contract with any community school or with the 20370
department's rules for sponsorship, the state board or designee 20371
shall conduct a hearing in accordance with Chapter 119. of the 20372
Revised Code on that matter. If after the hearing, the state board 20373
or designee has confirmed the original finding, the department of 20374
education may revoke the sponsor's approval to sponsor community 20375
schools and may assume the sponsorship of any schools with which 20376
the sponsor has contracted until the earlier of the expiration of 20377
two school years or until a new sponsor as described in division 20378
(C)(1) of section 3314.02 of the Revised Code is secured by the 20379
school's governing authority. The department may extend the term 20380
of the contract in the case of a school for which it has assumed 20381
sponsorship under this division as necessary to accommodate the 20382
term of the department's authorization to sponsor the school 20383
specified in this division. 20384

(D) The decision of the department to disapprove an entity 20385
for sponsorship of a community school or to revoke approval for 20386
such sponsorship, as provided in division (C) of this section, may 20387
be appealed by the entity in accordance with section 119.12 of the 20388
Revised Code. 20389

(E) In carrying out its duties under this chapter, the 20390
department shall not impose requirements on community schools or 20391
their sponsors that are not permitted by law or duly adopted 20392
rules. 20393

Sec. 3314.02. (A) As used in this chapter: 20394

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

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

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

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

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

(c) A big eight school district.

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

(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 20425
to July 1, 1998. 20426

(7) "Internet- or computer-based community school" means a 20427
community school established under this chapter in which the 20428
enrolled students work primarily from their residences on 20429
assignments in nonclassroom-based learning opportunities provided 20430
via an internet- or other computer-based instructional method that 20431
does not rely on regular classroom instruction or via 20432
comprehensive instructional methods that include internet-based, 20433
other computer-based, and noncomputer-based learning 20434
opportunities. 20435

(B) Any person or group of individuals may initially propose 20436
under this division the conversion of all or a portion of a public 20437
school to a community school. The proposal shall be made to the 20438
board of education of the city, local, or exempted village school 20439
district in which the public school is proposed to be converted. 20440
Upon receipt of a proposal, a board may enter into a preliminary 20441
agreement with the person or group proposing the conversion of the 20442
public school, indicating the intention of the board of education 20443
to support the conversion to a community school. A proposing 20444
person or group that has a preliminary agreement under this 20445
division may proceed to finalize plans for the school, establish a 20446
governing authority for the school, and negotiate a contract with 20447
the board of education. Provided the proposing person or group 20448
adheres to the preliminary agreement and all provisions of this 20449
chapter, the board of education shall negotiate in good faith to 20450
enter into a contract in accordance with section 3314.03 of the 20451
Revised Code and division (C) of this section. 20452

(C)(1) Any person or group of individuals may propose under 20453
this division the establishment of a new start-up school to be 20454
located in a challenged school district. The proposal may be made 20455
to any of the following entities: 20456

- (a) The board of education of the district in which the school is proposed to be located; 20457
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- (b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located; 20459
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- (c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory; 20463
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- (d) The governing board of any educational service center; 20467
- (e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education; 20468
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- (f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied: 20479
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- (i) The entity has been in operation for at least five years prior to applying to be a community school sponsor. 20482
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- (ii) The entity has assets of at least five hundred thousand dollars. 20484
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- (iii) The department of education has determined that the 20486

entity is an education-oriented entity under division (B)(3) of 20487
section 3314.015 of the Revised Code. 20488

~~Until July 1, 2005, any entity described in division 20489
(C)(1)(f) of this section may sponsor only schools that formerly 20490
were sponsored by the state board of education under division 20491
(C)(1)(d) of this section, as it existed prior to April 8, 2003. 20492
After July 1, 2005, such entity may sponsor any new or existing 20493
school. 20494~~

Any entity described in division (C)(1) of this section may 20495
enter into a preliminary agreement pursuant to division (C)(2) of 20496
this section with the proposing person or group. 20497

(2) A preliminary agreement indicates the intention of an 20498
entity described in division (C)(1) of this section to sponsor the 20499
community school. A proposing person or group that has such a 20500
preliminary agreement may proceed to finalize plans for the 20501
school, establish a governing authority as described in division 20502
(E) of this section for the school, and negotiate a contract with 20503
the entity. Provided the proposing person or group adheres to the 20504
preliminary agreement and all provisions of this chapter, the 20505
entity shall negotiate in good faith to enter into a contract in 20506
accordance with section 3314.03 of the Revised Code. 20507

(3) A new start-up school that is established in a school 20508
district while that district is either in a state of academic 20509
emergency or in a state of academic watch under section 3302.03 of 20510
the Revised Code may continue in existence once the school 20511
district is no longer in a state of academic emergency or academic 20512
watch, provided there is a valid contract between the school and a 20513
sponsor. 20514

(4) A copy of every preliminary agreement entered into under 20515
this division shall be filed with the superintendent of public 20516
instruction. 20517

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school or establish the new start-up school. Beginning on the effective date of this amendment, adoption of the contract shall occur not later than the fifteenth day of March prior to the school year in which the school will open. Up to the statewide limit prescribed in section 3314.013 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

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

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

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~~ August 15, 2003, in an urban

school district that is not also a big-eight school district may 20549
continue to operate after ~~the effective~~ that date ~~of this~~ 20550
~~amendment~~ and the contract between the school's governing 20551
authority and the school's sponsor may be renewed, as provided 20552
under this chapter, after ~~the effective~~ that date ~~of this~~ 20553
~~amendment~~, but no additional new start-up schools may be 20554
established in such a district unless the district is a challenged 20555
school district as defined in this section as it exists on and 20556
after ~~the effective~~ that date ~~of this amendment~~. 20557

Sec. 3314.021. (A) This section applies to any entity that is 20558
exempt from taxation under section 501(c)(3) of the Internal 20559
Revenue Code and that satisfies the conditions specified in 20560
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 20561
Revised Code but does not satisfy the condition specified in 20562
division (C)(1)(f)(i) of that section. 20563

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 20564
of the Revised Code, an entity described in division (A) of this 20565
section may do both of the following without obtaining the 20566
department of education's approval of its sponsorship under 20567
division (B)(1) of section 3314.015 of the Revised Code: 20568

(1) Succeed the board of trustees of a state university 20569
located in the pilot project area or that board's designee as the 20570
sponsor of a community school established under this chapter; 20571

(2) Continue to sponsor that school in conformance with the 20572
terms of the contract between the board of trustees or its 20573
designee and the governing authority of the community school and 20574
renew that contract as provided in division (E) of section 3314.03 20575
of the Revised Code. 20576

(C) The entity that succeeds the board of trustees or the 20577
board's designee as sponsor of a community school under division 20578
(B) of this section also may enter into contracts to sponsor other 20579

community schools located in any challenged school district, 20580
without obtaining the department's approval of its sponsorship 20581
under division (B)(1) of section 3314.015 of the Revised Code, and 20582
not subject to the restriction of ~~the paragraph following division~~ 20583
~~(C)(1)(f)(iii)~~ division (A)(5) of section ~~3314.02~~ 3314.013 of the 20584
Revised Code, as long as the contracts conform with and the entity 20585
complies with all other requirements of this chapter. 20586

Sec. 3314.03. A copy of every contract entered into under 20587
this section shall be filed with the superintendent of public 20588
instruction. 20589

(A) Each contract entered into between a sponsor and the 20590
governing authority of a community school shall specify the 20591
following: 20592

(1) That the school shall be established as either of the 20593
following: 20594

(a) A nonprofit corporation established under Chapter 1702. 20595
of the Revised Code, if established prior to April 8, 2003; 20596

(b) A public benefit corporation established under Chapter 20597
1702. of the Revised Code, if established after April 8, 2003; 20598

(2) The education program of the school, including the 20599
school's mission, the characteristics of the students the school 20600
is expected to attract, the ages and grades of students, and the 20601
focus of the curriculum; 20602

(3) The academic goals to be achieved and the method of 20603
measurement that will be used to determine progress toward those 20604
goals, which shall include the statewide achievement tests; 20605

(4) Performance standards by which the success of the school 20606
will be evaluated by the sponsor; 20607

(5) The admission standards of section 3314.06 of the Revised 20608

Code <u>and, if applicable, section 3314.061 of the Revised Code;</u>	20609
(6)(a) Dismissal procedures;	20610
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.	20611 20612 20613 20614 20615 20616 20617 20618
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	20619 20620
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.	20621 20622 20623 20624 20625 20626
(9) The facilities to be used and their locations;	20627
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;	20628 20629 20630 20631 20632 20633
(11) That the school will comply with the following requirements:	20634 20635
(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;	20636 20637 20638

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters that is not a contract with a for-profit firm for the operation or management of a school under the auspices of the governing authority;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person

must successfully complete the curriculum in any high school prior 20670
to receiving a high school diploma may be met by completing the 20671
curriculum adopted by the governing authority of the community 20672
school rather than the curriculum specified in Title XXXVIII of the 20673
Revised Code or any rules of the state board of education; 20674

(g) The school governing authority will submit within four 20675
months after the end of each school year a report of its 20676
activities and progress in meeting the goals and standards of 20677
divisions (A)(3) and (4) of this section and its financial status 20678
to the sponsor, the parents of all students enrolled in the 20679
school, and the legislative office of education oversight. The 20680
school will collect and provide any data that the legislative 20681
office of education oversight requests in furtherance of any study 20682
or research that the general assembly requires the office to 20683
conduct, including the studies required under Section 50.39 of Am. 20684
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 20685
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 20686

(12) Arrangements for providing health and other benefits to 20687
employees~~r~~. All health benefits shall be provided pursuant to 20688
section 9.901 of the Revised Code. 20689

(13) The length of the contract, which shall begin at the 20690
beginning of an academic year. No contract shall exceed five years 20691
unless such contract has been renewed pursuant to division (E) of 20692
this section. 20693

(14) The governing authority of the school, which shall be 20694
responsible for carrying out the provisions of the contract; 20695

(15) A financial plan detailing an estimated school budget 20696
for each year of the period of the contract and specifying the 20697
total estimated per pupil expenditure amount for each such year. 20698
The plan shall specify for each year the base formula amount that 20699
will be used for purposes of funding calculations under section 20700

3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in ~~section~~ sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts

adjacent to the district in which the school is located;	20732
(c) Permit the enrollment of students who reside in any other district in the state.	20733 20734
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	20735 20736 20737 20738
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	20739 20740 20741
(22) A provision recognizing both of the following:	20742
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	20743 20744 20745 20746
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;	20747 20748 20749 20750 20751 20752 20753
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;	20754 20755 20756 20757 20758 20759
(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent	20760 20761

possible, except that any action required to be taken by a school district pursuant to that section shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of that section. 20762
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(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void. 20766
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(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following: 20775
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(1) The process by which the governing authority of the school will be selected in the future; 20778
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(2) The management and administration of the school; 20780

(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion; 20781
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(4) The instructional program and educational philosophy of the school; 20785
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(5) Internal financial controls. 20787

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby 20788
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authorized to receive such payments as set forth in the contract 20792
between the governing authority and the sponsor. The total amount 20793
of such payments for oversight and monitoring of the school shall 20794
not exceed three per cent of the total amount of payments for 20795
operating expenses that the school receives from the state. 20796

(D) The contract shall specify the duties of the sponsor 20797
which shall be in accordance with the written agreement entered 20798
into with the department of education under division (B) of 20799
section 3314.015 of the Revised Code and shall include the 20800
following: 20801

(1) Monitor the community school's compliance with all laws 20802
applicable to the school and with the terms of the contract; 20803

(2) Monitor and evaluate the academic and fiscal performance 20804
and the organization and operation of the community school on at 20805
least an annual basis; 20806

(3) Report on an annual basis the results of the evaluation 20807
conducted under division (D)(2) of this section to the department 20808
of education and to the parents of students enrolled in the 20809
community school; 20810

(4) Provide technical assistance to the community school in 20811
complying with laws applicable to the school and terms of the 20812
contract; 20813

(5) Take steps to intervene in the school's operation to 20814
correct problems in the school's overall performance, declare the 20815
school to be on probationary status pursuant to section 3314.073 20816
of the Revised Code, suspend the operation of the school pursuant 20817
to section 3314.072 of the Revised Code, or terminate the contract 20818
of the school pursuant to section 3314.07 of the Revised Code as 20819
determined necessary by the sponsor; 20820

(6) Have in place a plan of action to be undertaken in the 20821

event the community school experiences financial difficulties or 20822
closes prior to the end of a school year. 20823

(E) Upon the expiration of a contract entered into under this 20824
section, the sponsor of a community school may, with the approval 20825
of the governing authority of the school, renew that contract for 20826
a period of time determined by the sponsor, but not ending earlier 20827
than the end of any school year, if the sponsor finds that the 20828
school's compliance with applicable laws and terms of the contract 20829
and the school's progress in meeting the academic goals prescribed 20830
in the contract have been satisfactory. Any contract that is 20831
renewed under this division remains subject to the provisions of 20832
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 20833

(F) If a community school fails to open for operation within 20834
one year after the contract entered into under this section is 20835
adopted pursuant to division (D) of section 3314.02 of the Revised 20836
Code or permanently closes prior to the expiration of the 20837
contract, the contract shall be void and the school shall not 20838
enter into a contract with any other sponsor. A school shall not 20839
be considered permanently closed because the operations of the 20840
school have been suspended pursuant to section 3314.072 of the 20841
Revised Code. Any contract that becomes void under this division 20842
shall not count toward any statewide limit on the number of such 20843
contracts prescribed by section 3314.013 of the Revised Code. 20844

Sec. 3314.035. Each internet- or computer-based community 20845
school shall provide its students a location within a fifty-mile 20846
radius of the student's residence at which to complete the 20847
statewide achievement tests and diagnostic assessments prescribed 20848
under sections 3301.079 and 3301.0710 of the Revised Code. 20849

Sec. 3314.06. The governing authority of each community 20850
school established under this chapter shall adopt admission 20851

procedures that specify the following: 20852

(A) That except as otherwise provided in this section, 20853
admission to the school shall be open to any individual age five 20854
to twenty-two entitled to attend school pursuant to section 20855
3313.64 or 3313.65 of the Revised Code in a school district in the 20856
state. 20857

(B)(1) That admission to the school may be limited to 20858
students who have attained a specific grade level or are within a 20859
specific age group; to students that meet a definition of 20860
"at-risk," as defined in the contract; ~~or~~ to residents of a 20861
specific geographic area within the district, as defined in the 20862
contract; or to separate groups of autistic students and 20863
nonhandicapped students, as authorized in section 3314.061 of the 20864
Revised Code and as defined in the contract. 20865

(2) For purposes of division (B)(1) of this section, 20866
"at-risk" students may include those students identified as gifted 20867
students under section 3324.03 of the Revised Code. 20868

(C) Whether enrollment is limited to students who reside in 20869
the district in which the school is located or is open to 20870
residents of other districts, as provided in the policy adopted 20871
pursuant to the contract. 20872

(D)(1) That there will be no discrimination in the admission 20873
of students to the school on the basis of race, creed, color, 20874
handicapping condition, or sex except that ~~the~~: 20875

(a) The governing authority may establish single-gender 20876
schools for the purpose described in division (G) of this section 20877
provided comparable facilities and learning opportunities are 20878
offered for both boys and girls. Such comparable facilities and 20879
opportunities may be offered for each sex at separate locations. 20880

(b) The governing authority may establish a school that 20881
simultaneously serves a group of students identified as autistic 20882

and a group of students who are not handicapped, as authorized in 20883
section 3314.061 of the Revised Code. However, unless the total 20884
capacity established for the school has been filled, no student 20885
with any handicap shall be denied admission on the basis of that 20886
handicap. 20887

(2) That upon admission of any handicapped student, the 20888
community school will comply with all federal and state laws 20889
regarding the education of handicapped students. 20890

(E) That the school may not limit admission to students on 20891
the basis of intellectual ability, measures of achievement or 20892
aptitude, or athletic ability, except that a school may limit its 20893
enrollment to students as described in division (B)~~(2)~~ of this 20894
section. 20895

(F) That the community school will admit the number of 20896
students that does not exceed the capacity of the school's 20897
programs, classes, grade levels, or facilities. 20898

(G) That the purpose of single-gender schools that are 20899
established shall be to take advantage of the academic benefits 20900
some students realize from single-gender instruction and 20901
facilities and to offer students and parents residing in the 20902
district the option of a single-gender education. 20903

(H) That, except as otherwise provided under division (B) of 20904
this section or section 3314.061 of the Revised Code, if the 20905
number of applicants exceeds the capacity restrictions of division 20906
(F) of this section, students shall be admitted by lot from all 20907
those submitting applications, except preference shall be given to 20908
students attending the school the previous year and to students 20909
who reside in the district in which the school is located. 20910
Preference may be given to siblings of students attending the 20911
school the previous year. 20912

(I) If the school is an internet- or computer-based community 20913

school, that the school shall not admit on or after the effective 20914
date of this amendment any student, other than a student enrolling 20915
in kindergarten, who was not enrolled in a public school for at 20916
least one semester or an equivalent term during the three 20917
preceding school years. 20918

Notwithstanding divisions (A) to ~~(H)~~(I) of this section, in 20919
the event the racial composition of the enrollment of the 20920
community school is violative of a federal desegregation order, 20921
the community school shall take any and all corrective measures to 20922
comply with the desegregation order. 20923

Sec. 3314.061. A governing authority may establish a 20924
community school under this chapter that is limited to providing 20925
simultaneously special education and related services to a 20926
specified number of students identified as autistic and regular 20927
educational programs to a specified number of students who are not 20928
handicapped. The contract between the governing authority and the 20929
school's sponsor shall specify the target ratio of number of 20930
autistic students to number of nonhandicapped students in the 20931
school's population, the total number of autistic students that 20932
may be enrolled in the school, and the total number of 20933
nonhandicapped students that may be enrolled in the school. A 20934
school established in accordance with this section is subject to 20935
division (H) of section 3314.06 of the Revised Code, except that 20936
because the governing authority establishes a separate capacity 20937
for autistic students and nonhandicapped students, if the number 20938
of applicants among the group of autistic students or the group of 20939
nonhandicapped students exceeds the capacity restrictions for that 20940
group, students shall be admitted by lot from all those of that 20941
same group submitting applications. However, unless the total 20942
capacity established for the school has been filled, no student 20943
with any handicap shall be denied admission on the basis of that 20944

<u>handicap.</u>	20945
Sec. 3314.074. Divisions (A) and (B) of this section apply	20946
only to the extent permitted under Chapter 1702. of the Revised	20947
Code.	20948
(A) If any community school established under this chapter	20949
permanently closes and ceases its operation as a community school,	20950
the assets of that school shall be distributed first to the	20951
retirement funds of employees of the school, employees of the	20952
school, and private creditors who are owed compensation and then	20953
any remaining funds shall be paid to the state treasury to the	20954
credit of the general revenue fund.	20955
(B) If a community school closes and ceases to operate as a	20956
community school and the school has received computer hardware or	20957
software from the <u>former</u> Ohio SchoolNet commission <u>or the agency</u>	20958
<u>designated by the governor to assume the functions of the</u>	20959
<u>commission</u> , such hardware or software shall be returned to the	20960
commission <u>agency</u> , and the commission <u>agency</u> shall redistribute	20961
the hardware and software, to the extent such redistribution is	20962
possible, to school districts in conformance with the provisions	20963
of the programs operated and administered by the commission	20964
<u>agency</u> .	20965
(C) If the assets of the school are insufficient to pay all	20966
persons or entities to whom compensation is owed, the	20967
prioritization of the distribution of the assets to individual	20968
persons or entities within each class of payees may be determined	20969
by decree of a court in accordance with this section and Chapter	20970
1702. of the Revised Code.	20971
Sec. 3314.08. (A) As used in this section:	20972
(1) "Base formula amount" means the amount specified as such	20973
in a community school's financial plan for a school year pursuant	20974

- to division (A)(15) of section 3314.03 of the Revised Code. 20975
- (2) "Cost-of-doing-business factor" has the same meaning as 20976
in section 3317.02 of the Revised Code. 20977
- (3) "IEP" means an individualized education program as 20978
defined in section 3323.01 of the Revised Code. 20979
- (4) "Applicable special education weight" means the multiple 20980
specified in section 3317.013 of the Revised Code for a handicap 20981
described in that section. 20982
- (5) "Applicable vocational education weight" means: 20983
- (a) For a student enrolled in vocational education programs 20984
or classes described in division (A) of section 3317.014 of the 20985
Revised Code, the multiple specified in that division; 20986
- (b) For a student enrolled in vocational education programs 20987
or classes described in division (B) of section 3317.014 of the 20988
Revised Code, the multiple specified in that division. 20989
- (6) "Entitled to attend school" means entitled to attend 20990
school in a district under section 3313.64 or 3313.65 of the 20991
Revised Code. 20992
- (7) A community school student is "included in the DPIA 20993
poverty student count" of a school district if the student is 20994
entitled to attend school in the district and+ 20995
- ~~(a) For school years prior to fiscal year 2004, the student's 20996
family receives assistance under the Ohio works first program. 20997~~
- ~~(b) For school years in and after fiscal year 2004, the 20998
student's family income does not exceed the federal poverty 20999
guidelines, as defined in section 5101.46 of the Revised Code, and 21000
the student's family receives family assistance, as defined in 21001
section 3317.029 of the Revised Code. 21002~~
- (8) "DPIA Poverty-based assistance reduction factor" means 21003

the percentage figure, if any, for reducing the per pupil amount 21004
of ~~disadvantaged pupil impact aid~~ poverty-based assistance a 21005
community school is entitled to receive pursuant to divisions 21006
(D)(5) and (6) of this section in any year, as specified in the 21007
school's financial plan for the year pursuant to division (A)(15) 21008
of section 3314.03 of the Revised Code. 21009

(9) "All-day kindergarten" has the same meaning as in section 21010
3317.029 of the Revised Code. 21011

(10) "SF-3 payment" means the sum of the payments to a school 21012
district in a fiscal year under divisions (A), (C)(1), (C)(4), 21013
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 21014
of section 3317.024, and sections 3317.029, 3317.0212, ~~3317.0213,~~ 21015
3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of 21016
the Revised Code after making the adjustments required by sections 21017
3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ 21018
(M), and (N) of section 3317.023, and division (C) of section 21019
3317.20 of the Revised Code. 21020

(B) The state board of education shall adopt rules requiring 21021
both of the following: 21022

(1) The board of education of each city, exempted village, 21023
and local school district to annually report the number of 21024
students entitled to attend school in the district who are 21025
enrolled in grades one through twelve in a community school 21026
established under this chapter, the number of students entitled to 21027
attend school in the district who are enrolled in kindergarten in 21028
a community school, the number of those kindergartners who are 21029
enrolled in all-day kindergarten in their community school, and 21030
for each child, the community school in which the child is 21031
enrolled. 21032

(2) The governing authority of each community school 21033
established under this chapter to annually report all of the 21034

following:	21035
(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;	21036 21037 21038 21039
(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;	21040 21041 21042 21043
(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;	21044 21045 21046 21047
(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;	21048 21049 21050 21051 21052
(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;	21053 21054 21055 21056 21057 21058 21059 21060 21061 21062
(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;	21063 21064

(g) The community school's base formula amount;	21065
(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;	21066 21067
(i) Any DPIA <u>poverty-based assistance</u> reduction factor that applies to a school year.	21068 21069
(C) From the SF-3 payment made to a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (6) <u>(9)</u> of this section. However, <u>when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore,</u> the aggregate amount deducted under this division shall not exceed the sum of the district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code.	21070 21071 21072 21073 21074 21075 21076 21077 21078 21079 21080 21081
(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the <u>following:</u>	21082 21083 21084 21085 21086 21087 21088
<u>(a) In fiscal year 2006, the</u> base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor;	21089 21090 21091
<u>(b) In fiscal year 2007 and thereafter, the greater of either of the following:</u>	21092 21093
<u>(i) The fiscal year 2006 base formula amount of that</u>	21094

<u>community school as adjusted by the school district's fiscal year</u>	21095
<u>2006 cost-of-doing-business factor;</u>	21096
<u>(ii) The sum of the current base formula amount of that</u>	21097
<u>community school plus the per pupil amount of the base funding</u>	21098
<u>supplements specified in divisions (B)(1) to (4) of section</u>	21099
<u>3317.012 of the Revised Code.</u>	21100
(2) The sum of the amounts calculated under divisions	21101
(C)(2)(a) and (b) of this section:	21102
(a) For each of the district's students reported under	21103
division (B)(2)(c) of this section as enrolled in a community	21104
school in grades one through twelve and receiving special	21105
education and related services pursuant to an IEP for a handicap	21106
described in section 3317.013 of the Revised Code, the product of	21107
the applicable special education weight times the community	21108
school's base formula amount;	21109
(b) For each of the district's students reported under	21110
division (B)(2)(c) of this section as enrolled in kindergarten in	21111
a community school and receiving special education and related	21112
services pursuant to an IEP for a handicap described in section	21113
3317.013 of the Revised Code, one-half of the amount calculated as	21114
prescribed in division (C)(2)(a) of this section.	21115
(3) For each of the district's students reported under	21116
division (B)(2)(d) of this section for whom payment is made under	21117
division (D)(4) of this section, the amount of that payment;	21118
(4) An amount equal to the sum of the amounts obtained when,	21119
for each community school where the district's students are	21120
enrolled, the number of the district's students enrolled in that	21121
community school who are included in the district's DPIA <u>poverty</u>	21122
student count is multiplied by the per pupil amount of	21123
disadvantaged pupil impact aid <u>poverty-based assistance</u> the school	21124
district receives that year pursuant to division (B) or (C) of	21125

section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 21126
poverty-based assistance reduction factor of that community 21127
school. If the district receives ~~disadvantaged pupil impact aid~~ 21128
poverty-based assistance under division (B) of that section, the 21129
per pupil amount of that aid is the quotient of the amount the 21130
district received under that division divided by the district's 21131
~~DPIA~~ poverty student count, as defined in that section. If the 21132
district receives ~~disadvantaged pupil impact aid~~ poverty-based 21133
assistance under division (C) of section 3317.029 of the Revised 21134
Code, the per pupil amount of that aid is the per pupil dollar 21135
amount prescribed for the district in ~~division~~ divisions (C)(1) ~~or~~ 21136
and (2) of that section, times a multiple of 0.50 in fiscal year 21137
2007. 21138

(5) An amount equal to the sum of the amounts obtained when, 21139
for each community school where the district's students are 21140
enrolled, the district's per pupil amount of aid received under 21141
division (E) of section 3317.029 of the Revised Code, as adjusted 21142
by any ~~DPIA~~ poverty-based assistance reduction factor of the 21143
community school, is multiplied by the sum of the following: 21144

(a) The number of the district's students reported under 21145
division (B)(2)(a) of this section who are enrolled in grades one 21146
to three in that community school and who are not receiving 21147
special education and related services pursuant to an IEP; 21148

(b) One-half of the district's students who are enrolled in 21149
all-day or any other kindergarten class in that community school 21150
and who are not receiving special education and related services 21151
pursuant to an IEP; 21152

(c) One-half of the district's students who are enrolled in 21153
all-day kindergarten in that community school and who are not 21154
receiving special education and related services pursuant to an 21155
IEP. 21156

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

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

The district's per pupil amount under division (F) of section 3317.029 of the Revised Code is the amount calculated under division (F)(1) or (2) of that section, times a multiple of 0.50 in fiscal year 2007.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 20, times a multiple of 0.50 in fiscal year 2007.

(8) An amount equal to the sum of the amounts obtained when, 21188
for each community school where the district's students are 21189
enrolled, the district's per pupil amount received under divisions 21190
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 21191
by any poverty-based assistance reduction factor of that community 21192
school, is multiplied by the sum of the following: 21193

(a) The number of the district's students enrolled in grades 21194
one through twelve in that community school; 21195

(b) One-half of the number of the district's students 21196
enrolled in kindergarten in that community school. 21197

The district's per pupil amount under divisions (H) and (I) 21198
of section 3317.029 of the Revised Code is the amount calculated 21199
under each division divided by the district's formula ADM, as 21200
defined in section 3317.02 of the Revised Code. 21201

(9) An amount equal to the per pupil state parity aid funding 21202
calculated for the school district under either division (C) or 21203
(D) of section 3317.0217 of the Revised Code multiplied by the sum 21204
of the number of students in grades one through twelve, and 21205
one-half of the number of students in kindergarten, who are 21206
entitled to attend school in the district and are enrolled in a 21207
community school as reported under division (B)(1) of this 21208
section. 21209

(D) The department shall annually pay to a community school 21210
established under this chapter the sum of the amounts described in 21211
divisions (D)(1) to ~~(7)~~(10) of this section. However, the 21212
department shall calculate and pay to each internet- or 21213
computer-based community school only the amounts described in 21214
divisions (D)(1) to (3) of this section. Furthermore, the sum of 21215
the payments to all community schools under divisions (D)(1), (2), 21216
and (4), ~~(5), (6), and (7)~~ to (10) of this section for the 21217
students entitled to attend school in any particular school 21218

district shall not exceed the sum of that district's SF-3 payment 21219
and its payment under sections 321.24 and 323.156 of the Revised 21220
Code. If the sum of the payments calculated under those divisions 21221
for the students entitled to attend school in a particular school 21222
district exceeds the sum of that district's SF-3 payment and its 21223
payment under sections 321.24 and 323.156 of the Revised Code, the 21224
department shall calculate and apply a proration factor to the 21225
payments to all community schools under those divisions for the 21226
students entitled to attend school in that district. 21227

(1) An amount equal to the sum of the amounts obtained when 21228
the number of students enrolled in grades one through twelve, plus 21229
one-half of the kindergarten students in the school, reported 21230
under divisions (B)(2)(a), (b), and (e) of this section who are 21231
not receiving special education and related services pursuant to 21232
an IEP for a handicap described in section 3317.013 of the Revised 21233
Code is multiplied by the following: 21234

(a) In fiscal year 2006, the community school's base formula 21235
amount, as adjusted by the cost-of-doing-business factor of the 21236
school district in which the student is entitled to attend school; 21237

(b) In fiscal year 2007 and thereafter, the greater of either 21238
of the following: 21239

(i) The community school's fiscal year 2006 base formula 21240
amount, as adjusted by the fiscal year 2006 cost-of-doing-business 21241
factor of the school district in which the student is entitled to 21242
attend school; 21243

(ii) The sum of the community school's current base formula 21244
amount plus the per pupil amount of the base funding supplements 21245
specified in divisions (B)(1) to (4) of section 3317.012 of the 21246
Revised Code. 21247

(2) The greater of the following: 21248

(a) The aggregate amount that the department paid to the 21249

community school in fiscal year 1999 for students receiving 21250
special education and related services pursuant to IEPs, excluding 21251
federal funds and state disadvantaged pupil impact aid funds; 21252

(b) The sum of the amounts calculated under divisions 21253
(D)(2)(b)(i) and (ii) of this section: 21254

(i) For each student reported under division (B)(2)(c) of 21255
this section as enrolled in the school in grades one through 21256
twelve and receiving special education and related services 21257
pursuant to an IEP for a handicap described in section 3317.013 of 21258
the Revised Code, either of the following amount amounts as 21259
applicable: 21260

(I) In fiscal year 2006, the amount shall be calculated 21261
according to the following formula: 21262

(the community school's base formula amount 21263
X the cost-of-doing-business factor 21264
of the district where the student 21265
is entitled to attend school) + 21266
(the applicable special education weight X 21267
the community school's base formula amount); 21268

(II) In fiscal year 2007 and thereafter, the amount shall be 21269
calculated according to the following formula: 21270

[the greater of (the community school's 21271
fiscal year 2006 base formula amount X 21272
the fiscal year 2006 cost-of-doing-business factor 21273
of the district where the student is entitled to attend school) 21274
or (the current formula amount plus the per pupil amount of the 21275
base funding supplements specified in divisions (B)(1) to (4) 21276
of section 3317.012 of the Revised Code)] + 21277
(the applicable special education weight X 21278
the community school's base formula amount). 21279

(ii) For each student reported under division (B)(2)(c) of 21280

this section as enrolled in kindergarten and receiving special 21281
education and related services pursuant to an IEP for a handicap 21282
described in section 3317.013 of the Revised Code, one-half of the 21283
amount calculated under the formula prescribed in division 21284
(D)(2)(b)(i) of this section. 21285

(3) An amount received from federal funds to provide special 21286
education and related services to students in the community 21287
school, as determined by the superintendent of public instruction. 21288

(4) For each student reported under division (B)(2)(d) of 21289
this section as enrolled in vocational education programs or 21290
classes that are described in section 3317.014 of the Revised 21291
Code, are provided by the community school, and are comparable as 21292
determined by the superintendent of public instruction to school 21293
district vocational education programs and classes eligible for 21294
state weighted funding under section 3317.014 of the Revised Code, 21295
an amount equal to the applicable vocational education weight 21296
times the community school's base formula amount times the 21297
percentage of time the student spends in the vocational education 21298
programs or classes. 21299

(5) An amount equal to the sum of the amounts obtained when, 21300
for each school district where the community school's students are 21301
entitled to attend school, the number of that district's students 21302
enrolled in the community school who are included in the 21303
district's ~~DPIA~~ poverty student count is multiplied by the per 21304
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 21305
assistance that school district receives that year pursuant to 21306
division (B) or (C) of section 3317.029 of the Revised Code, as 21307
adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of 21308
the community school. The per pupil amount of aid shall be 21309
determined as described in division (C)(4) of this section. 21310

(6) An amount equal to the sum of the amounts obtained when, 21311

for each school district where the community school's students are
entitled to attend school, the district's per pupil amount of aid
received under division (E) of section 3317.029 of the Revised
Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction
factor of the community school, is multiplied by the sum of the
following:

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

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

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

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

(7) An amount equal to the sum of the amounts obtained when,
for each school district where the community school's students are
entitled to attend school, the number of that district's students
enrolled in the community school who are identified as
limited-English proficient is multiplied by the district's per
pupil amount received under division (F) of section 3317.029 of
the Revised Code, as adjusted by any poverty-based assistance
reduction factor of the community school.

The district's per pupil amount under division (F) of section
3317.029 of the Revised Code shall be determined as described in

division (C)(6) of this section. 21343

(8) An amount equal to the sum of the amounts obtained when, 21344
for each school district where the community school's students are 21345
entitled to attend school, the district's per pupil amount 21346
received under division (G) of section 3317.029 of the Revised 21347
Code, as adjusted by any poverty-based assistance reduction factor 21348
of the community school, is multiplied by the sum of the 21349
following: 21350

(a) The number of the district's students enrolled in grades 21351
one through twelve in that community school; 21352

(b) One-half of the number of the district's students 21353
enrolled in kindergarten in that community school. 21354

The district's per pupil amount under division (G) of section 21355
3317.029 of the Revised Code shall be determined as described in 21356
division (C)(7) of this section. 21357

(9) An amount equal to the sum of the amounts obtained when, 21358
for each school district where the community school's students are 21359
entitled to attend school, the district's per pupil amount 21360
received under divisions (H) and (I) of section 3317.029 of the 21361
Revised Code, as adjusted by any poverty-based assistance 21362
reduction factor of the community school, is multiplied by the sum 21363
of the following: 21364

(a) The number of the district's students enrolled in grades 21365
one through twelve in that community school; 21366

(b) One-half of the number of the district's students 21367
enrolled in kindergarten in that community school. 21368

The district's per pupil amount under divisions (H) and (I) 21369
of section 3317.029 of the Revised Code shall be determined as 21370
described in division (C)(8) of this section. 21371

(10) An amount equal to the sum of the amounts obtained when, 21372

for each school district where the community school's students are 21373
entitled to attend school, the district's per pupil amount of 21374
state parity aid funding calculated under either division (C) or 21375
(D) of section 3317.0217 of the Revised Code is multiplied by the 21376
sum of the number of that district's students enrolled in grades 21377
one through twelve, and one-half of the number of that district's 21378
students enrolled in kindergarten, in the community school as 21379
reported under division (B)(2)(a) and (b) of this section. 21380

(E)(1) If a community school's costs for a fiscal year for a 21381
student receiving special education and related services pursuant 21382
to an IEP for a handicap described in divisions (B) to (F) of 21383
section 3317.013 of the Revised Code exceed the threshold 21384
catastrophic cost for serving the student as specified in division 21385
(C)(3)(b) of section 3317.022 of the Revised Code, the school may 21386
submit to the superintendent of public instruction documentation, 21387
as prescribed by the superintendent, of all its costs for that 21388
student. Upon submission of documentation for a student of the 21389
type and in the manner prescribed, the department shall pay to the 21390
community school an amount equal to the school's costs for the 21391
student in excess of the threshold catastrophic costs. 21392

(2) The community school shall only report under division 21393
(E)(1) of this section, and the department shall only pay for, the 21394
costs of educational expenses and the related services provided to 21395
the student in accordance with the student's individualized 21396
education program. Any legal fees, court costs, or other costs 21397
associated with any cause of action relating to the student may 21398
not be included in the amount. 21399

(F) A community school may apply to the department of 21400
education for preschool handicapped or gifted unit funding the 21401
school would receive if it were a school district. Upon request of 21402
its governing authority, a community school that received unit 21403
funding as a school district-operated school before it became a 21404

community school shall retain any units awarded to it as a school 21405
district-operated school provided the school continues to meet 21406
eligibility standards for the unit. 21407

A community school shall be considered a school district and 21408
its governing authority shall be considered a board of education 21409
for the purpose of applying to any state or federal agency for 21410
grants that a school district may receive under federal or state 21411
law or any appropriations act of the general assembly. The 21412
governing authority of a community school may apply to any private 21413
entity for additional funds. 21414

(G) A board of education sponsoring a community school may 21415
utilize local funds to make enhancement grants to the school or 21416
may agree, either as part of the contract or separately, to 21417
provide any specific services to the community school at no cost 21418
to the school. 21419

(H) A community school may not levy taxes or issue bonds 21420
secured by tax revenues. 21421

(I) No community school shall charge tuition for the 21422
enrollment of any student. 21423

(J)(1)(a) A community school may borrow money to pay any 21424
necessary and actual expenses of the school in anticipation of the 21425
receipt of any portion of the payments to be received by the 21426
school pursuant to division (D) of this section. The school may 21427
issue notes to evidence such borrowing. The proceeds of the notes 21428
shall be used only for the purposes for which the anticipated 21429
receipts may be lawfully expended by the school. 21430

(b) A school may also borrow money for a term not to exceed 21431
fifteen years for the purpose of acquiring facilities. 21432

(2) Except for any amount guaranteed under section 3318.50 of 21433
the Revised Code, the state is not liable for debt incurred by the 21434

governing authority of a community school. 21435

(K) For purposes of determining the number of students for 21436
which divisions (D)(5) and (6) of this section applies in any 21437
school year, a community school may submit to the department of 21438
job and family services, no later than the first day of March, a 21439
list of the students enrolled in the school. For each student on 21440
the list, the community school shall indicate the student's name, 21441
address, and date of birth and the school district where the 21442
student is entitled to attend school. Upon receipt of a list under 21443
this division, the department of job and family services shall 21444
determine, for each school district where one or more students on 21445
the list is entitled to attend school, the number of students 21446
residing in that school district who were included in the 21447
department's report under section 3317.10 of the Revised Code. The 21448
department shall make this determination on the basis of 21449
information readily available to it. Upon making this 21450
determination and no later than ninety days after submission of 21451
the list by the community school, the department shall report to 21452
the state department of education the number of students on the 21453
list who reside in each school district who were included in the 21454
department's report under section 3317.10 of the Revised Code. In 21455
complying with this division, the department of job and family 21456
services shall not report to the state department of education any 21457
personally identifiable information on any student. 21458

(L) The department of education shall adjust the amounts 21459
subtracted and paid under divisions (C) and (D) of this section to 21460
reflect any enrollment of students in community schools for less 21461
than the equivalent of a full school year. The state board of 21462
education within ninety days after April 8, 2003, shall adopt in 21463
accordance with Chapter 119. of the Revised Code rules governing 21464
the payments to community schools under this section including 21465
initial payments in a school year and adjustments and reductions 21466

made in subsequent periodic payments to community schools and 21467
corresponding deductions from school district accounts as provided 21468
under divisions (C) and (D) of this section. For purposes of this 21469
section: 21470

(1) A student shall be considered enrolled in the community 21471
school for any portion of the school year the student is 21472
participating at a college under Chapter 3365. of the Revised 21473
Code. 21474

(2) A student shall be considered to be enrolled in a 21475
community school during a school year for the period of time 21476
between the date on which the school both has received 21477
documentation of the student's enrollment from a parent and has 21478
commenced participation in learning opportunities as defined in 21479
the contract with the sponsor. For purposes of applying this 21480
division to a community school student, "learning opportunities" 21481
shall be defined in the contract, which shall describe both 21482
classroom-based and non-classroom-based learning opportunities and 21483
shall be in compliance with criteria and documentation 21484
requirements for student participation which shall be established 21485
by the department. Any student's instruction time in 21486
non-classroom-based learning opportunities shall be certified by 21487
an employee of the community school. A student's enrollment shall 21488
be considered to cease on the date on which any of the following 21489
occur: 21490

(a) The community school receives documentation from a parent 21491
terminating enrollment of the student. 21492

(b) The community school is provided documentation of a 21493
student's enrollment in another public or private school. 21494

(c) The community school ceases to offer learning 21495
opportunities to the student pursuant to the terms of the contract 21496
with the sponsor or the operation of any provision of this 21497

chapter. 21498

(3) A student's percentage of full-time equivalency shall be 21499
considered to be the percentage the hours of learning opportunity 21500
offered to that student is of nine hundred and twenty hours. 21501

(M) The department of education shall reduce the amounts paid 21502
under division (D) of this section to reflect payments made to 21503
colleges under division (B) of section 3365.07 of the Revised 21504
Code. 21505

(N)(1) No student shall be considered enrolled in any 21506
internet- or computer-based community school unless both of the 21507
following conditions are satisfied: 21508

(a) The student possesses or has been provided with all 21509
required hardware and software materials and all such materials 21510
are operational so that the student is capable of fully 21511
participating in the learning opportunities specified in the 21512
contract between the school and the school's sponsor as required 21513
by division (A)(23) of section 3314.03 of the Revised Code; 21514

(b) The school is in compliance with division (A)(1) or (2) 21515
of section 3314.032 of the Revised Code, relative to such student. 21516

(2) In accordance with policies adopted jointly by the 21517
superintendent of public instruction and the auditor of state, the 21518
department shall reduce the amounts otherwise payable under 21519
division (D) of this section to any internet- or computer-based 21520
community school that includes in its program the provision of 21521
computer hardware and software materials to each student, if such 21522
hardware and software materials have not been delivered, 21523
installed, and activated for all students in a timely manner or 21524
other educational materials or services have not been provided 21525
according to the contract between the individual community school 21526
and its sponsor. 21527

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. 21528
21529
21530
21531

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. 21532
21533
21534
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(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons: 21537
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21539
21540
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21542
21543

(a) The department and the community school mutually agree to the extension. 21544
21545

(b) Delays in data submission caused by either a community school or its sponsor. 21546
21547

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply: 21548
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21550
21551
21552

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee. 21553
21554
21555

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an 21556
21557

appeal and shall issue a decision within fifteen days of the
conclusion of the hearing. 21558
21559

(c) If the board has enlisted a designee to conduct the
hearing, the designee shall certify its decision to the board. The
board may accept the decision of the designee or may reject the
decision of the designee and issue its own decision on the matter. 21560
21561
21562
21563

(d) Any decision made by the board under this division is
final. 21564
21565

(3) If it is decided that the community school owes moneys to
the state, the department shall deduct such amount from the
school's future payments in accordance with guidelines issued by
the superintendent of public instruction. 21566
21567
21568
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Sec. 3314.13. (A) As used in this section: 21570

(1) "All-day kindergarten" has the same meaning as in section
3317.029 of the Revised Code. 21571
21572

(2) "Formula amount" has the same meaning as in section
3317.02 of the Revised Code. 21573
21574

(B) The Except as provided in division (C) of this section,
the department of education annually shall pay each community
school established under this chapter one-half of the formula
amount for each student to whom both of the following apply: 21575
21576
21577
21578

(1) The student is entitled to attend school under section
3313.64 or 3313.65 of the Revised Code in a school district that
is eligible to receive a payment under division (D) of section
3317.029 of the Revised Code if it provides all-day kindergarten; 21579
21580
21581
21582

(2) The student is reported by the community school as
enrolled in all-day kindergarten at the community school. 21583
21584

(C) The department shall make no payments under this section
to any internet- or computer-based community school. 21585
21586

(D) If a student for whom payment is made under division (B) 21587
of this section is entitled to attend school in a district that 21588
receives any payment for all-day kindergarten under division (D) 21589
of section 3317.029 of the Revised Code, the department shall 21590
deduct the payment to the community school under this section from 21591
the amount paid that school district under that division. If that 21592
school district does not receive payment for all-day kindergarten 21593
under that division because it does not provide all-day 21594
kindergarten, the department shall pay the community school from 21595
state funds appropriated generally for ~~disadvantaged pupil impact~~ 21596
~~aid~~ poverty-based assistance to school districts. 21597

~~(D)~~(E) The department shall adjust the amounts deducted from 21598
school districts and paid to community schools under this section 21599
to reflect any enrollments of students in all-day kindergarten in 21600
community schools for less than the equivalent of a full school 21601
year. 21602

Sec. 3314.29. (A) The department of education shall 21603
establish, maintain, and administer a self-insurance surety 21604
program for community schools established under this chapter for 21605
the purpose of paying surety claims. The program shall be owned 21606
proportionally by contributing schools. The following apply to the 21607
program: 21608

(1) Such funds shall be reserved as are necessary, in the 21609
exercise of sound and prudent actuarial judgment, to cover all 21610
surety claims not to exceed one million dollars per occurrence or 21611
three million dollars aggregate. The surety limit applicable to 21612
all participating schools shall be twenty-five million dollars. 21613

(2) The department shall establish, by rules adopted in 21614
accordance with Chapter 119. of the Revised Code, a fair, 21615
self-adjusting mechanism by which to determine the amount each 21616
participating school is required to contribute to the program. The 21617

determination shall be made on the basis of relative exposure and 21618
loss experience and shall take into account the size of the 21619
school's enrollment and its academic and financial performance. 21620

(3) The department shall obtain a surety bond from a bonding 21621
company or insurance company authorized to do business in this 21622
state to pay claims in excess of one million dollars per 21623
occurrence or three million dollars aggregate. 21624

(4) The aggregate fees paid to brokers in any year under the 21625
program shall not exceed three hundred thousand dollars. 21626

(B) All contributions received from participating schools 21627
pursuant to division (A)(2) of this section shall be deposited 21628
into the community school surety fund, which is hereby created. 21629
The fund shall be in the custody of the treasurer of state but not 21630
part of the state treasury. Money credited to the fund shall be 21631
used for the administration of the program, including the payment 21632
of claims, broker fees, and other actual and necessary expenses 21633
incurred by the department in carrying out the purposes of this 21634
section. 21635

The treasurer of state shall disburse money from the fund on 21636
order of the superintendent of public instruction, or the 21637
superintendent's designee. All investment earnings of the fund 21638
shall be credited to the fund. 21639

Sec. 3315.17. (A) The board of education of each city, 21640
exempted village, local, and joint vocational school district 21641
shall establish a textbook and instructional materials fund. Each 21642
board annually shall deposit into that fund an amount derived from 21643
revenues received by the district for operating expenses that is 21644
equal to three per cent of the formula amount for the preceding 21645
fiscal year, as defined in section 3317.02 of the Revised Code, or 21646
another percentage if established by the auditor of state under 21647

division (C) of this section, multiplied by the district's student population for the preceding fiscal year. Money in the fund shall be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B)(1) Notwithstanding division (A) of this section, if in a fiscal year a district board deposits in the textbook and instructional materials fund an amount of money greater than the amount required to be deposited by this section or the rules adopted under division (C) of this section, the board may deduct the excess amount of money from the amount of money required to be deposited in succeeding fiscal years.

(2) Notwithstanding division (A) of this section, in any year a district is in fiscal emergency status as declared pursuant to section 3316.03 of the Revised Code, the district may deposit an amount less than required by division (A) of this section, or make no deposit, into the district textbook and instructional materials fund for that year.

(C) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. of the Revised Code defining what constitutes textbooks, instructional software, and instructional materials, supplies, and equipment for which money in a school district's textbook and instructional materials fund may be used. The auditor of state also may designate a percentage, other than three per cent, of the formula amount multiplied by the district's student population that must be deposited into the fund.

(D) Notwithstanding division (A) of this section, a district board of education in any fiscal year may appropriate money in the district textbook and instructional materials fund for purposes

other than those permitted by that division if both of the 21679
following occur during that fiscal year: 21680

(1) All of the following certify to the district board in 21681
writing that the district has sufficient textbooks, instructional 21682
software, and instructional materials, supplies, and equipment to 21683
ensure a thorough and efficient education within the district: 21684

(a) The district superintendent; 21685

(b) In districts required to have a business advisory 21686
council, a person designated by vote of the business advisory 21687
council; 21688

(c) If the district teachers are represented by an exclusive 21689
bargaining representative for purposes of Chapter 4117. of the 21690
Revised Code, the president of that organization or the 21691
president's designee. 21692

(2) The district board adopts, by unanimous vote of all 21693
members of the board, a resolution stating that the district has 21694
sufficient textbooks, instructional software, and instructional 21695
materials, supplies, and equipment to ensure a thorough and 21696
efficient education within the district. 21697

(E) Notwithstanding any provision to the contrary in Chapter 21698
4117. of the Revised Code, the requirements of this section 21699
prevail over any conflicting provisions of agreements between 21700
employee organizations and public employers entered into on or 21701
after November 21, 1997. 21702

(F) As used in this section and in section 3315.18 of the 21703
Revised Code, "student population" means the average, daily, 21704
full-time-equivalent number of students in kindergarten through 21705
twelfth grade receiving any educational services from the school 21706
district during the first full school week in October, excluding 21707
students enrolled in adult education classes, but including all of 21708

the following: 21709

(1) Adjacent or other district students enrolled in the 21710
district under an open enrollment policy pursuant to section 21711
3313.98 of the Revised Code; 21712

(2) Students receiving services in the district pursuant to a 21713
compact, cooperative education agreement, or a contract, but who 21714
are entitled to attend school in another district pursuant to 21715
section 3313.64 or 3313.65 of the Revised Code; 21716

(3) Students for whom tuition is payable pursuant to sections 21717
3317.081 and 3323.141 of the Revised Code. 21718

The department of education shall determine a district's 21719
student population using data reported to it under section 3317.03 21720
of the Revised Code for the applicable fiscal year. 21721

Sec. 3315.18. (A) The board of education of each city, 21722
exempted village, local, and joint vocational school district 21723
shall establish a capital and maintenance fund. Each board 21724
annually shall deposit into that fund an amount derived from 21725
revenues received by the district that would otherwise have been 21726
deposited in the general fund that is equal to three per cent of 21727
the formula amount for the preceding fiscal year, as defined in 21728
section 3317.02 of the Revised Code, or another percentage if 21729
established by the auditor of state under division (B) of this 21730
section, multiplied by the district's student population for the 21731
preceding fiscal year, except that money received from a permanent 21732
improvement levy authorized by section 5705.21 of the Revised Code 21733
may replace general revenue moneys in meeting the requirements of 21734
this section. Money in the fund shall be used solely for 21735
acquisition, replacement, enhancement, maintenance, or repair of 21736
permanent improvements, as that term is defined in section 5705.01 21737
of the Revised Code. Any money in the fund that is not used in any 21738

fiscal year shall carry forward to the next fiscal year. 21739

(B) The state superintendent of public instruction and the 21740
auditor of state jointly shall adopt rules in accordance with 21741
Chapter 119. of the Revised Code defining what constitutes 21742
expenditures permitted by division (A) of this section. The 21743
auditor of state may designate a percentage, other than three per 21744
cent, of the formula amount multiplied by the district's student 21745
population that must be deposited into the fund. 21746

(C) Within its capital and maintenance fund, a school 21747
district board of education may establish a separate account 21748
solely for the purpose of depositing funds transferred from the 21749
district's reserve balance account established under former 21750
division (H) of section 5705.29 of the Revised Code. After ~~the~~ 21751
~~effective date of this amendment~~ April 10, 2001, a board may 21752
deposit all or part of the funds formerly included in such reserve 21753
balance account in the separate account established under this 21754
section. Funds deposited in this separate account and interest on 21755
such funds shall be utilized solely for the purpose of providing 21756
the district's portion of the basic project costs of any project 21757
undertaken in accordance with Chapter 3318. of the Revised Code. 21758

(D) Notwithstanding division (A) of this section, in any year 21759
a district is in fiscal emergency status as declared pursuant to 21760
section 3316.03 of the Revised Code, the district may deposit an 21761
amount less than required by division (A) of this section, or make 21762
no deposit, into the district capital and maintenance fund for 21763
that year. 21764

(E) Notwithstanding any provision to the contrary in Chapter 21765
4117. of the Revised Code, the requirements of this section 21766
prevail over any conflicting provisions of agreements between 21767
employee organizations and public employers entered into after 21768
November 21, 1997. 21769

Sec. 3315.37. The board of education of a school district may 21770
establish a teacher education loan program and may expend school 21771
funds for the program. The program shall be for the purpose of 21772
making loans to students who are residents of the school district 21773
or graduates of schools in the school district, who are enrolled 21774
in teacher preparation programs at institutions approved by the 21775
state board pursuant to section 3319.23 of the Revised Code, and 21776
who indicate an intent to teach in the school district providing 21777
the loan. The district board may forgive the obligation to repay 21778
any or all of the principal and interest on the loan if the 21779
borrower teaches in that school district. 21780

The district board shall adopt rules establishing eligibility 21781
criteria, application procedures, procedures for review of 21782
applications, loan amounts, interest, repayment schedules, 21783
conditions under which principal and interest obligations incurred 21784
under the program will be forgiven, and any other matter 21785
incidental to the operation of the program. 21786

The board may contract with a private, nonprofit foundation, 21787
one or more institutions of higher education, or other educational 21788
agencies to administer the program. 21789

The receipt of a loan under this section does not affect a 21790
student's eligibility for assistance, or the amount of such 21791
assistance, granted under section 3315.33, 3333.12, 3333.122, 21792
3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised 21793
Code, but the board's rules may provide for taking such assistance 21794
into consideration when determining a student's eligibility for a 21795
loan under this section. 21796

Sec. 3316.043. Upon the approval by the superintendent of 21797
public instruction of an initial financial plan under section 21798
3316.04 of the Revised Code or a financial recovery plan under 21799

section 3316.06 of the Revised Code, the board of education of the 21800
school district for which the plan was approved shall revise the 21801
district's five-year projection of revenues and expenditures in 21802
accordance with rules adopted under section 5705.391 of the 21803
Revised Code so that the five-year projection is consistent with 21804
the financial plan or financial recovery plan. In the case of a 21805
school district declared to be in a state of fiscal emergency, the 21806
five-year projection shall be revised by the financial planning 21807
and supervision commission for that district. 21808

Sec. 3316.06. (A) Within one hundred twenty days after the 21809
first meeting of a school district financial planning and 21810
supervision commission, the commission shall adopt a financial 21811
recovery plan regarding the school district for which the 21812
commission was created. During the formulation of the plan, the 21813
commission shall seek appropriate input from the school district 21814
board and from the community. This plan shall contain the 21815
following: 21816

(1) Actions to be taken to: 21817

(a) Eliminate all fiscal emergency conditions declared to 21818
exist pursuant to division (B) of section 3316.03 of the Revised 21819
Code; 21820

(b) Satisfy any judgments, past-due accounts payable, and all 21821
past-due and payable payroll and fringe benefits; 21822

(c) Eliminate the deficits in all deficit funds, except that 21823
any prior year deficits in the textbook and instructional 21824
materials fund established pursuant to section 3315.17 of the 21825
Revised Code and the capital and maintenance fund established 21826
pursuant to section 3315.18 of the Revised Code shall be forgiven; 21827

(d) Restore to special funds any moneys from such funds that 21828
were used for purposes not within the purposes of such funds, or 21829

borrowed from such funds by the purchase of debt obligations of 21830
the school district with the moneys of such funds, or missing from 21831
the special funds and not accounted for, if any; 21832

(e) Balance the budget, avoid future deficits in any funds, 21833
and maintain on a current basis payments of payroll, fringe 21834
benefits, and all accounts; 21835

(f) Avoid any fiscal emergency condition in the future; 21836

(g) Restore the ability of the school district to market 21837
long-term general obligation bonds under provisions of law 21838
applicable to school districts generally. 21839

(2) The management structure that will enable the school 21840
district to take the actions enumerated in division (A)(1) of this 21841
section. The plan shall specify the level of fiscal and management 21842
control that the commission will exercise within the school 21843
district during the period of fiscal emergency, and shall 21844
enumerate respectively, the powers and duties of the commission 21845
and the powers and duties of the school board during that period. 21846
The commission may elect to assume any of the powers and duties of 21847
the school board it considers necessary, including all powers 21848
related to personnel, curriculum, and legal issues in order to 21849
successfully implement the actions described in division (A)(1) of 21850
this section. 21851

(3) The target dates for the commencement, progress upon, and 21852
completion of the actions enumerated in division (A)(1) of this 21853
section and a reasonable period of time expected to be required to 21854
implement the plan. The commission shall prepare a reasonable time 21855
schedule for progress toward and achievement of the requirements 21856
for the plan, and the plan shall be consistent with that time 21857
schedule. 21858

(4) The amount and purpose of any issue of debt obligations 21859
that will be issued, together with assurances that any such debt 21860

obligations that will be issued will not exceed debt limits 21861
supported by appropriate certifications by the fiscal officer of 21862
the school district and the county auditor. Debt obligations 21863
issued pursuant to section 133.301 of the Revised Code shall 21864
include assurances that such debt shall be in an amount not to 21865
exceed the amount certified under division (B) of such section. If 21866
the commission considers it necessary in order to maintain or 21867
improve educational opportunities of pupils in the school 21868
district, the plan may include a proposal to restructure or 21869
refinance outstanding debt obligations incurred by the board under 21870
section 3313.483 of the Revised Code contingent upon the approval, 21871
during the period of the fiscal emergency, by district voters of a 21872
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 21873
5748.02, or 5748.08 of the Revised Code, that is not a renewal or 21874
replacement levy and that will provide new operating revenue. 21875
Notwithstanding any provision of Chapter 133. or sections 3313.483 21876
to 3313.4811 of the Revised Code, following the required approval 21877
of the district voters and with the approval of the commission, 21878
the school district may issue securities to evidence the 21879
restructuring or refinancing. Those securities may extend the 21880
original period for repayment, not to exceed ten years, and may 21881
alter the frequency and amount of repayments, interest or other 21882
financing charges, and other terms of agreements under which the 21883
debt originally was contracted, at the discretion of the 21884
commission, provided that any loans received pursuant to section 21885
3313.483 of the Revised Code shall be paid from funds the district 21886
would otherwise receive under sections 3317.022 to 3317.025 of the 21887
Revised Code, as required under division (E)(3) of section 21888
3313.483 of the Revised Code. The securities issued for the 21889
purpose of restructuring or refinancing the debt shall be repaid 21890
in equal payments and at equal intervals over the term of the debt 21891
and are not eligible to be included in any subsequent proposal for 21892
the purpose of restructuring or refinancing debt under this 21893

section. 21894

(B) Any financial recovery plan may be amended subsequent to 21895
its adoption. Each financial recovery plan shall be updated 21896
annually. 21897

(C) Each school district financial planning and supervision 21898
commission shall submit the financial recovery plan it adopts or 21899
updates under this section to the state superintendent of public 21900
instruction for approval immediately following its adoption or 21901
updating. The state superintendent shall evaluate the plan and 21902
either approve or disapprove it within thirty calendar days from 21903
the date of its submission. If the plan is disapproved, the state 21904
superintendent shall recommend modifications that will render it 21905
acceptable. No financial planning and supervision commission shall 21906
implement a financial recovery plan that is adopted or updated on 21907
or after ~~the effective date of this amendment~~ April 10, 2001, 21908
unless the state superintendent has approved it. 21909

Sec. 3316.16. (A) A school district financial planning and 21910
supervision commission, with respect to its functions under this 21911
chapter, shall continue in existence until such time as a 21912
determination is made under division (B) of this section that all 21913
of the following have occurred: 21914

(1) An effective financial accounting and reporting system in 21915
accordance with section 3316.10 of the Revised Code is in the 21916
process of being implemented, and it is reasonably expected that 21917
this implementation will be completed within two years. 21918

(2) All of the fiscal emergency conditions determined 21919
pursuant to division (B) of section 3316.03 of the Revised Code 21920
have been corrected or eliminated, and no new fiscal emergency 21921
conditions have occurred. 21922

(3) The objectives of the financial recovery plan described 21923

in section 3316.06 of the Revised Code are being met. 21924

(4) The school district board has prepared a financial 21925
forecast for a five-year period in accordance with the standards 21926
issued by the auditor of state and an opinion has been rendered by 21927
the auditor of state that the financial forecast is considered to 21928
be nonadverse. The forecast shall display the district's projected 21929
compliance with sections 3315.17 and 3315.18 of the Revised Code 21930
beginning in the year the commission is proposed for termination. 21931

(B) The determination that all conditions listed in division 21932
(A) of this section for the termination of the existence of the 21933
commission and its functions exist may be made either by the 21934
auditor of state or by the commission and shall be certified to 21935
the commission, the auditor of state, the governor, the director 21936
of budget and management, and the budget commission, whereupon 21937
such commission and its functions under this chapter shall 21938
terminate. This determination shall be made by the auditor of 21939
state upon the filing with the auditor of state of a written 21940
request for such a determination by the school district board, the 21941
governor, or the commission, or may be made by the auditor of 21942
state upon the auditor of state's own initiative. 21943

(C) The commission shall prepare and submit at the time of 21944
such certification a final report of its activities, in such form 21945
as is appropriate for the purpose of providing a record of its 21946
activities and assisting other commissions created under this 21947
chapter in the conduct of their functions. All of the books and 21948
records of the commission shall be delivered to the auditor of 21949
state for retention and safekeeping. 21950

(D) Upon receipt of the certification provided for in 21951
division (B) of this section, the director of budget and 21952
management shall follow the procedures set forth in section 126.29 21953
of the Revised Code. 21954

(E) If, at the time of termination of the commission, an 21955
effective financial accounting and reporting system has not been 21956
fully implemented, the auditor of state shall monitor the progress 21957
of implementation and shall exercise authority under this section 21958
and Chapter 117. of the Revised Code to secure full implementation 21959
at the earliest time feasible but within two years after such 21960
termination. 21961

Sec. 3317.01. As used in this section and section 3317.011 of 21962
the Revised Code, "school district," unless otherwise specified, 21963
means any city, local, exempted village, joint vocational, or 21964
cooperative education school district and any educational service 21965
center. 21966

This chapter shall be administered by the state board of 21967
education. The superintendent of public instruction shall 21968
calculate the amounts payable to each school district and shall 21969
certify the amounts payable to each eligible district to the 21970
treasurer of the district as provided by this chapter. No moneys 21971
shall be distributed pursuant to this chapter without the approval 21972
of the controlling board. 21973

The state board of education shall, in accordance with 21974
appropriations made by the general assembly, meet the financial 21975
obligations of this chapter. 21976

Annually, the department of education shall calculate and 21977
report to each school district the district's total state and 21978
local funds for providing an adequate basic education to the 21979
district's nonhandicapped students, utilizing the determination in 21980
section 3317.012 of the Revised Code. In addition, the department 21981
shall calculate and report separately for each school district the 21982
district's total state and local funds for providing an adequate 21983
education for its handicapped students, utilizing the 21984
determinations in both sections 3317.012 and 3317.013 of the 21985

Revised Code. 21986

Not later than the thirty-first day of August of each fiscal 21987
year, the department of education shall provide to each school 21988
district and county MR/DD board a preliminary estimate of the 21989
amount of funding that the department calculates the district will 21990
receive under each of divisions (C)(1) and (4) of section 3317.022 21991
of the Revised Code. No later than the first day of December of 21992
each fiscal year, the department shall update that preliminary 21993
estimate. 21994

Moneys distributed pursuant to this chapter shall be 21995
calculated and paid on a fiscal year basis, beginning with the 21996
first day of July and extending through the thirtieth day of June. 21997
The moneys appropriated for each fiscal year shall be distributed 21998
at least monthly to each school district unless otherwise provided 21999
for. The state board shall submit a yearly distribution plan to 22000
the controlling board at its first meeting in July. The state 22001
board shall submit any proposed midyear revision of the plan to 22002
the controlling board in January. Any year-end revision of the 22003
plan shall be submitted to the controlling board in June. If 22004
moneys appropriated for each fiscal year are distributed other 22005
than monthly, such distribution shall be on the same basis for 22006
each school district. 22007

The total amounts paid each month shall constitute, as nearly 22008
as possible, one-twelfth of the total amount payable for the 22009
entire year. ~~Payments~~ 22010

Until fiscal year 2007, payments made during the first six 22011
months of the fiscal year may be based on an estimate of the 22012
amounts payable for the entire year. Payments made in the last six 22013
months shall be based on the final calculation of the amounts 22014
payable to each school district for that fiscal year. Payments 22015
made in the last six months may be adjusted, if necessary, to 22016

correct the amounts distributed in the first six months, and to 22017
reflect enrollment increases when such are at least three per 22018
cent. ~~Except~~ 22019

Beginning in fiscal year 2007, payments shall be calculated 22020
to reflect the biannual reporting of formula ADM. Payments for 22021
July through December shall be based on the formula ADM, special 22022
education ADM, and vocational education ADM certified in the 22023
spring of the previous fiscal year, and payments for January 22024
through June shall be based on formula ADM, special education ADM, 22025
and vocational education ADM certified in October of the current 22026
fiscal year. 22027

Except as otherwise provided, payments under this chapter 22028
shall be made only to those school districts in which: 22029

(A) The school district, except for any educational service 22030
center and any joint vocational or cooperative education school 22031
district, levies for current operating expenses at least twenty 22032
mills. Levies for joint vocational or cooperative education school 22033
districts or county school financing districts, limited to or to 22034
the extent apportioned to current expenses, shall be included in 22035
this qualification requirement. School district income tax levies 22036
under Chapter 5748. of the Revised Code, limited to or to the 22037
extent apportioned to current operating expenses, shall be 22038
included in this qualification requirement to the extent 22039
determined by the tax commissioner under division (D) of section 22040
3317.021 of the Revised Code. 22041

(B) The school year next preceding the fiscal year for which 22042
such payments are authorized meets the requirement of section 22043
3313.48 or 3313.481 of the Revised Code, with regard to the 22044
minimum number of days or hours school must be open for 22045
instruction with pupils in attendance, for individualized 22046
parent-teacher conference and reporting periods, and for 22047
professional meetings of teachers. This requirement shall be 22048

waived by the superintendent of public instruction if it had been 22049
necessary for a school to be closed because of disease epidemic, 22050
hazardous weather conditions, inoperability of school buses or 22051
other equipment necessary to the school's operation, damage to a 22052
school building, or other temporary circumstances due to utility 22053
failure rendering the school building unfit for school use, 22054
provided that for those school districts operating pursuant to 22055
section 3313.48 of the Revised Code the number of days the school 22056
was actually open for instruction with pupils in attendance and 22057
for individualized parent-teacher conference and reporting periods 22058
is not less than one hundred seventy-five, or for those school 22059
districts operating on a trimester plan the number of days the 22060
school was actually open for instruction with pupils in attendance 22061
not less than seventy-nine days in any trimester, for those school 22062
districts operating on a quarterly plan the number of days the 22063
school was actually open for instruction with pupils in attendance 22064
not less than fifty-nine days in any quarter, or for those school 22065
districts operating on a pentamester plan the number of days the 22066
school was actually open for instruction with pupils in attendance 22067
not less than forty-four days in any pentamester. 22068

A school district shall not be considered to have failed to 22069
comply with this division or section 3313.481 of the Revised Code 22070
because schools were open for instruction but either twelfth grade 22071
students were excused from attendance for up to three days or only 22072
a portion of the kindergarten students were in attendance for up 22073
to three days in order to allow for the gradual orientation to 22074
school of such students. 22075

The superintendent of public instruction shall waive the 22076
requirements of this section with reference to the minimum number 22077
of days or hours school must be in session with pupils in 22078
attendance for the school year succeeding the school year in which 22079
a board of education initiates a plan of operation pursuant to 22080

section 3313.481 of the Revised Code. The minimum requirements of 22081
this section shall again be applicable to such a district 22082
beginning with the school year commencing the second July 22083
succeeding the initiation of one such plan, and for each school 22084
year thereafter. 22085

A school district shall not be considered to have failed to 22086
comply with this division or section 3313.48 or 3313.481 of the 22087
Revised Code because schools were open for instruction but the 22088
length of the regularly scheduled school day, for any number of 22089
days during the school year, was reduced by not more than two 22090
hours due to hazardous weather conditions. 22091

(C) The school district has on file, and is paying in 22092
accordance with, a teachers' salary schedule which complies with 22093
section 3317.13 of the Revised Code. 22094

A board of education or governing board of an educational 22095
service center which has not conformed with other law and the 22096
rules pursuant thereto, shall not participate in the distribution 22097
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 22098
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 22099
and sufficient reason established to the satisfaction of the state 22100
board of education and the state controlling board. 22101

All funds allocated to school districts under this chapter, 22102
except those specifically allocated for other purposes, shall be 22103
used to pay current operating expenses only. 22104

Sec. 3317.012. (A)(1) The general assembly, having analyzed 22105
school district expenditure and cost data for fiscal year 1999, 22106
performed the calculation described in division ~~(B)~~(C) of this 22107
section, adjusted the results for inflation, and added the amounts 22108
described in division (A)(2) of this section, hereby determines 22109
that the base cost of an adequate education per pupil for the 22110

fiscal year beginning July 1, 2001, is \$4,814. The base cost per pupil, reflecting an annual rate of inflation of two and eight-tenths per cent, is \$4,949 for fiscal year 2003. The base cost per pupil, reflecting an annual rate of inflation of two and two-tenths per cent, is \$5,058 for fiscal year 2004 ~~and~~, \$5,169 for fiscal year 2005, \$5,283 in fiscal year 2006, and \$5,399 in fiscal year 2007.

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

(B) In addition, to the per-pupil base cost as determined under division (A) of this section, the general assembly determines that the following base funding supplements shall be paid to school districts in fiscal year 2007:

(1) Base funding for academic intervention services, calculated according to the following formula:

<u>0.005 X the formula amount X formula ADM X multiple</u>	22143
<u>Where "multiple" equals 0.50 in fiscal year 2007.</u>	22144
<u>(2) Base funding for professional development, calculated</u>	22145
<u>according to the following formula:</u>	22146
<u>(formula ADM / 20) X (0.044484 X formula amount) X multiple</u>	22147
<u>Where "multiple" equals 0.50 in fiscal year 2007.</u>	22148
<u>(3) Base funding for data-based decision making, calculated</u>	22149
<u>according to the following formula:</u>	22150
<u>0.001087 X formula amount X formula ADM</u>	22151
<u>(4) Base funding for professional development regarding</u>	22152
<u>data-based decision making, calculated according to the following</u>	22153
<u>formula:</u>	22154
<u>(0.20 X the district's teacher factor X 0.079082 X</u>	22155
<u>formula amount) + (the district's principal factor X</u>	22156
<u>0.079082 X formula amount)</u>	22157
<u>Where:</u>	22158
<u>(a) For each urban school district, as defined in section</u>	22159
<u>3314.02 of the Revised Code, the district's "teacher factor" is</u>	22160
<u>the district's formula ADM divided by twelve;</u>	22161
<u>(b) For every other school district, the district's "teacher</u>	22162
<u>factor" is the district's formula ADM divided by seventeen;</u>	22163
<u>(c) For all school districts, a district's "principal factor"</u>	22164
<u>is the district's teacher factor divided by twenty.</u>	22165
<u>(C) In determining the base cost stated in division (A) of</u>	22166
<u>this section, capital and debt costs, costs paid for by federal</u>	22167
<u>funds, and costs covered by funds provided for disadvantaged pupil</u>	22168
<u>impact aid and transportation were excluded, as were the effects</u>	22169
<u>on the districts' state funds of the application of the</u>	22170
<u>cost-of-doing-business factors, assuming a seven and one-half per</u>	22171
<u>cent variance.</u>	22172

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:

(1) The district met at least twenty of the following
twenty-seven performance indicators:

(a) A ninety per cent or higher graduation rate;

(b) At least seventy-five per cent of fourth graders
proficient on the mathematics test prescribed under former
division (A)(1) of section 3301.0710 of the Revised Code;

(c) At least seventy-five per cent of fourth graders
proficient on the reading test prescribed under former division
(A)(1) of section 3301.0710 of the Revised Code;

(d) At least seventy-five per cent of fourth graders
proficient on the writing test prescribed under former division
(A)(1) of section 3301.0710 of the Revised Code;

(e) At least seventy-five per cent of fourth graders
proficient on the citizenship test prescribed under former
division (A)(1) of section 3301.0710 of the Revised Code;

(f) At least seventy-five per cent of fourth graders
proficient on the science test prescribed under former division
(A)(1) of section 3301.0710 of the Revised Code;

(g) At least seventy-five per cent of sixth graders
proficient on the mathematics test prescribed under former
division (A)(2) of section 3301.0710 of the Revised Code;

(h) At least seventy-five per cent of sixth graders
proficient on the reading test prescribed under former division

(A)(2) of section 3301.0710 of the Revised Code;	22203
(i) At least seventy-five per cent of sixth graders	22204
proficient on the writing test prescribed under former division	22205
(A)(2) of section 3301.0710 of the Revised Code;	22206
(j) At least seventy-five per cent of sixth graders	22207
proficient on the citizenship test prescribed under former	22208
division (A)(2) of section 3301.0710 of the Revised Code;	22209
(k) At least seventy-five per cent of sixth graders	22210
proficient on the science test prescribed under former division	22211
(A)(2) of section 3301.0710 of the Revised Code;	22212
(l) At least seventy-five per cent of ninth graders	22213
proficient on the mathematics test prescribed under Section 4 of	22214
Am. Sub. S.B. 55 of the 122nd general assembly;	22215
(m) At least seventy-five per cent of ninth graders	22216
proficient on the reading test prescribed under Section 4 of Am.	22217
Sub. S.B. 55 of the 122nd general assembly;	22218
(n) At least seventy-five per cent of ninth graders	22219
proficient on the writing test prescribed under Section 4 of Am.	22220
Sub. S.B. 55 of the 122nd general assembly;	22221
(o) At least seventy-five per cent of ninth graders	22222
proficient on the citizenship test prescribed under Section 4 of	22223
Am. Sub. S.B. 55 of the 122nd general assembly;	22224
(p) At least seventy-five per cent of ninth graders	22225
proficient on the science test prescribed under Section 4 of Am.	22226
Sub. S.B. 55 of the 122nd general assembly;	22227
(q) At least eighty-five per cent of tenth graders proficient	22228
on the mathematics test prescribed under Section 4 of Am. Sub.	22229
S.B. 55 of the 122nd general assembly;	22230
(r) At least eighty-five per cent of tenth graders proficient	22231
on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	22232

of the 122nd general assembly;	22233
(s) At least eighty-five per cent of tenth graders proficient	22234
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	22235
of the 122nd general assembly;	22236
(t) At least eighty-five per cent of tenth graders proficient	22237
on the citizenship test prescribed under Section 4 of Am. Sub.	22238
S.B. 55 of the 122nd general assembly;	22239
(u) At least eighty-five per cent of tenth graders proficient	22240
on the science test prescribed under Section 4 of Am. Sub. S.B. 55	22241
of the 122nd general assembly;	22242
(v) At least sixty per cent of twelfth graders proficient on	22243
the mathematics test prescribed under former division (A)(3) of	22244
section 3301.0710 of the Revised Code;	22245
(w) At least sixty per cent of twelfth graders proficient on	22246
the reading test prescribed under former division (A)(3) of	22247
section 3301.0710 of the Revised Code;	22248
(x) At least sixty per cent of twelfth graders proficient on	22249
the writing test prescribed under former division (A)(3) of	22250
section 3301.0710 of the Revised Code;	22251
(y) At least sixty per cent of twelfth graders proficient on	22252
the citizenship test prescribed under former division (A)(3) of	22253
section 3301.0710 of the Revised Code;	22254
(z) At least sixty per cent of twelfth graders proficient on	22255
the science test prescribed under former division (A)(3) of	22256
section 3301.0710 of the Revised Code;	22257
(aa) An attendance rate for the year of at least ninety-three	22258
per cent.	22259
In determining whether a school district met any of the	22260
performance standards specified in divisions (B) (C)(1)(a) to (aa)	22261
of this section, the general assembly used a rounding procedure	22262

previously recommended by the department of education. It is the 22263
same rounding procedure the general assembly used in 1998 to 22264
determine whether a district had met the standards of former 22265
divisions ~~(B)~~(C)(1)(a) to (r) of this section for purposes of 22266
constructing the previous model based on fiscal year 1996 data. 22267

(2) The district was not among the five per cent of all 22268
districts with the highest income, nor among the five per cent of 22269
all districts with the lowest income. 22270

(3) The district was not among the five per cent of all 22271
districts with the highest valuation per pupil, nor among the five 22272
per cent of all districts with the lowest valuation per pupil. 22273

This model for calculating the base cost of an adequate 22274
education is expenditure-based. The general assembly recognizes 22275
that increases in state funding to school districts since fiscal 22276
year 1996, the fiscal year upon which the general assembly based 22277
its model for calculating state funding to school districts for 22278
fiscal years 1999 through 2001, has increased school district base 22279
cost expenditures for fiscal year 1999, the fiscal year upon which 22280
the general assembly based its model for calculating state funding 22281
for fiscal years 2002 through 2005. In the case of school 22282
districts included in the fiscal year 1999 model that also had met 22283
the fiscal year 1996 performance criteria of former division 22284
~~(B)~~(C)(1) of this section, the increased state funding may have 22285
driven the districts' expenditures beyond the expenditures that 22286
were actually needed to maintain their educational programs at the 22287
level necessary to maintain their ability to meet the fiscal year 22288
1999 performance criteria of current division ~~(B)~~(C)(1) of this 22289
section. The general assembly has determined to control for this 22290
effect by stipulating in the later model that the fiscal year 1999 22291
base cost expenditures of the districts that also met the 22292
performance criteria of former division ~~(B)~~(C)(1) of this section 22293
equals their base cost expenditures per pupil for fiscal year 22294

1996, inflated to fiscal year 1999 using an annual rate of 22295
inflation of two and eight-tenths per cent. However, if this 22296
inflated amount exceeded the district's actual fiscal year 1999 22297
base cost expenditures per pupil, the district's actual fiscal 22298
year 1999 base cost expenditures per pupil were used in the 22299
calculation. For districts in the 1999 model that did not also 22300
meet the performance criteria of former division ~~(B)~~(C)(1) of this 22301
section, the actual 1999 base cost per pupil expenditures were 22302
used in the calculation of the average district per pupil costs of 22303
the model districts. 22304

Sec. 3317.013. This section does not apply to handicapped 22305
preschool students. 22306

Analysis of special education cost data has resulted in a 22307
finding that the average special education additional cost per 22308
pupil, including the costs of related services, can be expressed 22309
as a multiple of the base cost per pupil calculated under section 22310
3317.012 of the Revised Code. The multiples for the following 22311
categories of special education programs, as these programs are 22312
defined for purposes of Chapter 3323. of the Revised Code, and 22313
adjusted as provided in this section, are as follows: 22314

(A) A multiple of 0.2892 for students whose primary or only 22315
identified handicap is a speech and language handicap, as this 22316
term is defined pursuant to Chapter 3323. of the Revised Code; 22317

(B) A multiple of 0.3691 for students identified as specific 22318
learning disabled or developmentally handicapped, as these terms 22319
are defined pursuant to Chapter 3323. of the Revised Code, or 22320
other health handicapped-minor; 22321

(C) A multiple of 1.7695 for students identified as hearing 22322
handicapped, vision impaired, or severe behavior handicapped, as 22323
these terms are defined pursuant to Chapter 3323. of the Revised 22324
Code; 22325

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

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code;

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

In fiscal year 2004, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples specified in those divisions shall be adjusted by multiplying them by 0.90.

Not later than the thirtieth day of May ~~30, in~~ 2004, ~~and May 30,~~ 2005, 2006, and 2007, the department shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means the base cost for the fiscal year specified in division (A)(1) of section 3317.012 of the Revised Code.

(C) "FTE basis" means a count of students based on full-time 22356
equivalency, in accordance with rules adopted by the department of 22357
education pursuant to section 3317.03 of the Revised Code. In 22358
adopting its rules under this division, the department shall 22359
provide for counting any student in category one, two, three, 22360
four, five, or six special education ADM or in category one or two 22361
vocational education ADM in the same proportion the student is 22362
counted in formula ADM. 22363

(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted 22364
village school district, the number reported pursuant to division 22365
(A) of section 3317.03 of the Revised Code less any subtraction 22366
required under section 3317.034 of the Revised Code, and for a 22367
joint vocational school district, the number reported pursuant to 22368
division (D) of ~~that~~ section 3317.03 of the Revised Code less any 22369
subtraction required under section 3317.034 of the Revised Code. 22370

(2) "Adjusted formula ADM" for a city, local, or exempted 22371
village school district means the sum of formula ADM plus the 22372
number of internet- or computer-based community school students 22373
reported under division (B)(3)(e) of section 3317.03 of the 22374
Revised Code plus the number of scholarship students reported 22375
under division (B)(3)(f) of that section. 22376

(E) "Three-year average formula ADM" means the average of 22377
formula ADMs for the current and preceding two fiscal years. 22378
~~However, as applicable in fiscal years 1999 and 2000, the~~ 22379
~~three year average for city, local, and exempted village school~~ 22380
~~districts shall be determined utilizing the FY 1997 ADM or FY 1998~~ 22381
~~ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal~~ 22382
~~years 2000 and 2001, the three year average for joint vocational~~ 22383
~~school districts shall be determined utilizing the average daily~~ 22384
~~membership reported in fiscal years 1998 and 1999 under division~~ 22385
~~(D) of section 3317.03 of the Revised Code in lieu of formula ADM~~ 22386
~~for fiscal years 1998 and 1999.~~ 22387

(E) "FY 1997 ADM" or "FY 1998 ADM" means the school	22388
district's average daily membership reported for the applicable	22389
fiscal year under the version of division (A) of section 3317.03	22390
of the Revised Code in effect during that fiscal year, adjusted as	22391
follows:	22392
(1) Minus the average daily membership of handicapped	22393
preschool children;	22394
(2) Minus one half of the average daily membership attending	22395
kindergarten;	22396
(3) Minus three fourths of the average daily membership	22397
attending a joint vocational school district;	22398
(4) Plus the average daily membership entitled under section	22399
3313.64 or 3313.65 of the Revised Code to attend school in the	22400
district but receiving educational services in approved units from	22401
an educational service center or another school district under a	22402
compact or a cooperative education agreement, as determined by the	22403
department;	22404
(5) Minus the average daily membership receiving educational	22405
services from the district in approved units but entitled under	22406
section 3313.64 or 3313.65 of the Revised Code to attend school in	22407
another school district, as determined by the department.	22408
(F)(1) "Category one special education ADM" means the average	22409
daily membership of handicapped children receiving special	22410
education services for the handicap specified in division (A) of	22411
section 3317.013 of the Revised Code and reported under division	22412
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.	22413
(2) "Category two special education ADM" means the average	22414
daily membership of handicapped children receiving special	22415
education services for those handicaps specified in division (B)	22416
of section 3317.013 of the Revised Code and reported under	22417

division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code. 22418
22419

(3) "Category three special education ADM" means the average 22420
daily membership of students receiving special education services 22421
for those handicaps specified in division (C) of section 3317.013 22422
of the Revised Code, and reported under division (B)(7) or 22423
(D)(2)(d) of section 3317.03 of the Revised Code. 22424

(4) "Category four special education ADM" means the average 22425
daily membership of students receiving special education services 22426
for those handicaps specified in division (D) of section 3317.013 22427
of the Revised Code and reported under division (B)(8) or 22428
(D)(2)(e) of section 3317.03 of the Revised Code. 22429

(5) "Category five special education ADM" means the average 22430
daily membership of students receiving special education services 22431
for the handicap specified in division (E) of section 3317.013 of 22432
the Revised Code and reported under division (B)(9) or (D)(2)(f) 22433
of section 3317.03 of the Revised Code. 22434

(6) "Category six special education ADM" means the average 22435
daily membership of students receiving special education services 22436
for the handicap specified in division (F) of section 3317.013 of 22437
the Revised Code and reported under division (B)(10) or (D)(2)(g) 22438
of section 3317.03 of the Revised Code. 22439

(7) "Category one vocational education ADM" means the average 22440
daily membership of students receiving vocational education 22441
services described in division (A) of section 3317.014 of the 22442
Revised Code and reported under division (B)(11) or (D)(2)(h) of 22443
section 3317.03 of the Revised Code. 22444

(8) "Category two vocational education ADM" means the average 22445
daily membership of students receiving vocational education 22446
services described in division (B) of section 3317.014 of the 22447
Revised Code and reported under division (B)(12) or (D)(2)(i) of 22448

section 3317.03 of the Revised Code. 22449

(G) "Handicapped preschool child" means a handicapped child, 22450
as defined in section 3323.01 of the Revised Code, who is at least 22451
age three but is not of compulsory school age, as defined in 22452
section 3321.01 of the Revised Code, and who is not currently 22453
enrolled in kindergarten. 22454

(H) "County MR/DD board" means a county board of mental 22455
retardation and developmental disabilities. 22456

(I) "Recognized valuation" means the amount calculated for a 22457
school district pursuant to section 3317.015 of the Revised Code. 22458

(J) "Transportation ADM" means the number of children 22459
reported under division (B)(13) of section 3317.03 of the Revised 22460
Code. 22461

(K) "Average efficient transportation use cost per student" 22462
means a statistical representation of transportation costs as 22463
calculated under division (D)(2) of section 3317.022 of the 22464
Revised Code. 22465

(L) "Taxes charged and payable" means the taxes charged and 22466
payable against real and public utility property after making the 22467
reduction required by section 319.301 of the Revised Code, plus 22468
the taxes levied against tangible personal property. 22469

(M) "Total taxable value" means the sum of the amounts 22470
certified for a city, local, exempted village, or joint vocational 22471
school district under divisions (A)(1) and (2) of section 3317.021 22472
of the Revised Code. 22473

(N) "Cost-of-doing-business factor" means the amount 22474
indicated in this division for the county in which a city, local, 22475
exempted village, or joint vocational school district is located. 22476
If a city, local, or exempted village school district is located 22477
in more than one county, the factor is the amount indicated for 22478

the county to which the district is assigned by the state		22479
department of education. If a joint vocational school district is		22480
located in more than one county, the factor is the amount		22481
indicated for the county in which the joint vocational school with		22482
the greatest formula ADM operated by the district is located.		22483
	COST-OF-DOING-BUSINESS	22484
COUNTY	FACTOR AMOUNT	22485
Adams	1.0035	22486
Allen	1.0206	22487
Ashland	1.0297	22488
Ashtabula	1.0397	22489
Athens	1.0014	22490
Auglaize	1.0247	22491
Belmont	1.0064	22492
Brown	1.0177	22493
Butler	1.0646	22494
Carroll	1.0137	22495
Champaign	1.0446	22496
Clark	1.0447	22497
Clermont	1.0541	22498
Clinton	1.0329	22499
Columbiana	1.0214	22500
Coshocton	1.0173	22501
Crawford	1.0164	22502
Cuyahoga	1.0626	22503
Darke	1.0338	22504
Defiance	1.0146	22505
Delaware	1.0528	22506
Erie	1.0388	22507
Fairfield	1.0366	22508
Fayette	1.0319	22509
Franklin	1.0608	22510
Fulton	1.0330	22511

Gallia	1.0000	22512
Geauga	1.0501	22513
Greene	1.0444	22514
Guernsey	1.0066	22515
Hamilton	1.0750	22516
Hancock	1.0215	22517
Hardin	1.0356	22518
Harrison	1.0074	22519
Henry	1.0318	22520
Highland	1.0148	22521
Hocking	1.0188	22522
Holmes	1.0178	22523
Huron	1.0293	22524
Jackson	1.0138	22525
Jefferson	1.0073	22526
Knox	1.0279	22527
Lake	1.0524	22528
Lawrence	1.0081	22529
Licking	1.0381	22530
Logan	1.0385	22531
Lorain	1.0515	22532
Lucas	1.0390	22533
Madison	1.0488	22534
Mahoning	1.0346	22535
Marion	1.0306	22536
Medina	1.0536	22537
Meigs	1.0026	22538
Mercer	1.0203	22539
Miami	1.0411	22540
Monroe	1.0050	22541
Montgomery	1.0453	22542
Morgan	1.0089	22543
Morrow	1.0301	22544

Muskingum	1.0127	22545
Noble	1.0073	22546
Ottawa	1.0486	22547
Paulding	1.0115	22548
Perry	1.0160	22549
Pickaway	1.0391	22550
Pike	1.0103	22551
Portage	1.0472	22552
Preble	1.0442	22553
Putnam	1.0216	22554
Richland	1.0199	22555
Ross	1.0151	22556
Sandusky	1.0321	22557
Scioto	1.0012	22558
Seneca	1.0223	22559
Shelby	1.0278	22560
Stark	1.0255	22561
Summit	1.0542	22562
Trumbull	1.0351	22563
Tuscarawas	1.0089	22564
Union	1.0500	22565
Van Wert	1.0133	22566
Vinton	1.0095	22567
Warren	1.0658	22568
Washington	1.0060	22569
Wayne	1.0348	22570
Williams	1.0228	22571
Wood	1.0360	22572
Wyandot	1.0171	22573

(O) "Tax exempt value" of a school district means the amount 22574
certified for a school district under division (A)(4) of section 22575
3317.021 of the Revised Code. 22576

(P) "Potential value" of a school district means the	22577
recognized valuation of a school district plus the tax exempt	22578
value of the district.	22579
(Q) "District median income" means the median Ohio adjusted	22580
gross income certified for a school district. On or before the	22581
first day of July of each year, the tax commissioner shall certify	22582
to the department of education for each city, exempted village,	22583
and local school district the median Ohio adjusted gross income of	22584
the residents of the school district determined on the basis of	22585
tax returns filed for the second preceding tax year by the	22586
residents of the district.	22587
(R) "Statewide median income" means the median district	22588
median income of all city, exempted village, and local school	22589
districts in the state.	22590
(S) "Income factor" for a city, exempted village, or local	22591
school district means the quotient obtained by dividing that	22592
district's median income by the statewide median income.	22593
(T) "Medically fragile child" means a child to whom all of	22594
the following apply:	22595
(1) The child requires the services of a doctor of medicine	22596
or osteopathic medicine at least once a week due to the	22597
instability of the child's medical condition.	22598
(2) The child requires the services of a registered nurse on	22599
a daily basis.	22600
(3) The child is at risk of institutionalization in a	22601
hospital, skilled nursing facility, or intermediate care facility	22602
for the mentally retarded.	22603
(U) A child may be identified as "other health	22604
handicapped-major" if the child's condition meets the definition	22605
of "other health impaired" established in rules adopted by the	22606

state board of education prior to July 1, 2001, and if either of
the following apply:

(1) The child is identified as having a medical condition
that is among those listed by the superintendent of public
instruction as conditions where a substantial majority of cases
fall within the definition of "medically fragile child." The
superintendent of public instruction shall issue an initial list
no later than September 1, 2001.

(2) The child is determined by the superintendent of public
instruction to be a medically fragile child. A school district
superintendent may petition the superintendent of public
instruction for a determination that a child is a medically
fragile child.

(V) A child may be identified as "other health
handicapped-minor" if the child's condition meets the definition
of "other health impaired" established in rules adopted by the
state board of education prior to July 1, 2001, but the child's
condition does not meet either of the conditions specified in
division (U)(1) or (2) of this section.

(W) "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, 3317.0216,
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 of the Revised Code, divisions (B), (C), (D), (E),
(K), (L), (M), and (N) of section 3317.023, and division (C) of
section 3317.20 of the Revised Code.

(X) "Payments in lieu of taxes" means the amount certified by
the director of development for each school district under
division (E) of section 3317.021 of the Revised Code.

(Y) "Incentive district tax-exempt value" means the amount 22638
certified for a school district under division (A)(6) of section 22639
3317.021 of the Revised Code. 22640

Sec. 3317.021. (A) On or before the first day of June of each 22641
year, the tax commissioner shall certify to the department of 22642
education the following information for each city, exempted 22643
village, and local school district, and the information required 22644
by divisions (A)(1) and (2) of this section for each joint 22645
vocational school district, and it shall be used, along with the 22646
information certified under division (B) of this section, in 22647
making the computations for the district under sections 3317.022 22648
and 3317.0217 or section 3317.16 of the Revised Code: 22649

(1) The taxable value of real and public utility real 22650
property in the school district subject to taxation in the 22651
preceding tax year, by class and by county of location; 22652

(2) The taxable value of tangible personal property, 22653
including public utility personal property, subject to taxation by 22654
the district for the preceding tax year; 22655

(3)(a) The total property tax rate and total taxes charged 22656
and payable for the current expenses for the preceding tax year 22657
and the total property tax rate and the total taxes charged and 22658
payable to a joint vocational district for the preceding tax year 22659
that are limited to or to the extent apportioned to current 22660
expenses; 22661

(b) The portion of the amount of taxes charged and payable 22662
reported for each city, local, and exempted village school 22663
district under division (A)(3)(a) of this section attributable to 22664
a joint vocational school district. 22665

(4) The value of all real and public utility real property in 22666
the school district exempted from taxation minus both of the 22667

following:	22668
(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;	22669 22670 22671
(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.	22672 22673 22674 22675
(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available.	22676 22677 22678 22679
<u>(6) The total value of real property in the school district exempted from taxation under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year.</u>	22680 22681 22682 22683 22684 22685 22686
(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.	22687 22688 22689 22690 22691 22692
(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification	22693 22694 22695 22696 22697 22698

under divisions (A)(2) and (B) of this section for the school 22699
district shall include only the amount of taxable value on the 22700
basis of which the public utility paid tax for the preceding year 22701
as provided in division (B)(1) or (2) of section 5727.47 of the 22702
Revised Code. 22703

(D) If on the basis of the information certified under 22704
division (A) of this section, the department determines that any 22705
district fails in any year to meet the qualification requirement 22706
specified in division (A) of section 3317.01 of the Revised Code, 22707
the department shall immediately request the tax commissioner to 22708
determine the extent to which any school district income tax 22709
levied by the district under Chapter 5748. of the Revised Code 22710
shall be included in meeting that requirement. Within five days of 22711
receiving such a request from the department, the tax commissioner 22712
shall make the determination required by this division and report 22713
the quotient obtained under division (D)(3) of this section to the 22714
department. This quotient represents the number of mills that the 22715
department shall include in determining whether the district meets 22716
the qualification requirement of division (A) of section 3317.01 22717
of the Revised Code. 22718

The tax commissioner shall make the determination required by 22719
this division as follows: 22720

(1) Multiply one mill times the total taxable value of the 22721
district as determined in divisions (A)(1) and (2) of this 22722
section; 22723

(2) Estimate the total amount of tax liability for the 22724
current tax year under taxes levied by Chapter 5748. of the 22725
Revised Code that are apportioned to current operating expenses of 22726
the district; 22727

(3) Divide the amount estimated under division (D)(2) of this 22728
section by the product obtained under division (D)(1) of this 22729

section. 22730

(E) On or before the thirty-first day after the effective 22731
date of this amendment, and on or before the first day of June of 22732
each year thereafter, the director of development shall certify to 22733
the department of education the total amount of payments in lieu 22734
of taxes received by each city, exempted village, and local school 22735
district during the preceding tax year under division (B) of 22736
section 5709.82 of the Revised Code or otherwise in relation to 22737
exemptions from taxation granted under Chapter 725. or 1728. of 22738
the Revised Code, sections 3735.65 to 3735.70 of the Revised Code, 22739
or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the 22740
Revised Code. For this purpose, whenever any city, exempted 22741
village, or local school district enters into a contract or 22742
agreement with another party to receive such payments, the 22743
treasurer of the district shall report to the director of 22744
development the total amounts of such payments the district will 22745
receive each tax year pursuant to the contract or agreement. The 22746
state board of education, in accordance with sections 3319.31 and 22747
3319.311 of the Revised Code, may suspend or revoke the license of 22748
a school district treasurer found to have willfully reported 22749
erroneous, inaccurate, or incomplete data under this division. 22750

Sec. 3317.022. (A)~~(1)~~ The department of education shall 22751
compute and distribute state base cost funding to each school 22752
district for the fiscal year in accordance with ~~the following~~ 22753
~~formula~~ division (A) of this section, making any adjustment 22754
required by division (A)~~(2)~~(3) of this section and using the 22755
information obtained under section 3317.021 of the Revised Code in 22756
the calendar year in which the fiscal year begins. 22757

~~Compute the following~~ (1) In fiscal year 2006, state base 22758
cost funding for each eligible district shall be computed as 22759
follows: 22760

(cost-of-doing-business factor X 22761
the formula amount X 22762
adjusted formula ADM) - 22763
[(.023 X recognized valuation) 22764
plus (0.50 X payments in lieu of taxes)] 22765

(2) Beginning in fiscal year 2007, state base cost funding 22766
for each eligible district shall be computed as the greater of the 22767
amount calculated under division (A)(2)(a) or (b) of this section 22768
minus [(0.023 times recognized valuation) plus (0.50 X payments in 22769
lieu of taxes)]. 22770

Accordingly, beginning in fiscal year 2007, the department 22771
shall calculate both of the following for each eligible district: 22772

(a) Cost-of-doing-business factor for fiscal year 2006 X 22773
formula amount for fiscal year 2006 X adjusted formula ADM for 22774
fiscal year 2006; 22775

(b) (Formula amount for the current fiscal year X current 22776
adjusted formula ADM) + the sum of the base funding supplements 22777
prescribed in divisions (B)(1) to (4) of section 3317.012 of the 22778
Revised Code. 22779

A district's base cost funding shall be the greater of the 22780
amount computed under division (A)(1)(a) or (b) of this section 22781
minus (0.023 times the sum of recognized valuation and incentive 22782
district tax exempt value). 22783

If the difference obtained is a negative number, the 22784
district's computation shall be zero. 22785

~~(2)~~(3)(a) For each school district for which the tax exempt 22786
value of the district equals or exceeds twenty-five per cent of 22787
the potential value of the district, the department of education 22788
shall calculate the difference between the district's tax exempt 22789
value and twenty-five per cent of the district's potential value. 22790

(b) For each school district to which division (A)~~(2)~~(3)(a) 22791
of this section applies, the department shall adjust the 22792
recognized valuation used in the calculation under division (A)(1) 22793
or (2) of this section by subtracting from it the amount 22794
calculated under division (A)~~(2)~~(3)(a) of this section. 22795

(B) As used in this section: 22796

(1) The "total special education weight" for a district means 22797
the sum of the following amounts: 22798

(a) The district's category one special education ADM 22799
multiplied by the multiple specified in division (A) of section 22800
3317.013 of the Revised Code; 22801

(b) The district's category two special education ADM 22802
multiplied by the multiple specified in division (B) of section 22803
3317.013 of the Revised Code; 22804

(c) The district's category three special education ADM 22805
multiplied by the multiple specified in division (C) of section 22806
3317.013 of the Revised Code; 22807

(d) The district's category four special education ADM 22808
multiplied by the multiple specified in division (D) of section 22809
3317.013 of the Revised Code; 22810

(e) The district's category five special education ADM 22811
multiplied by the multiple specified in division (E) of section 22812
3317.013 of the Revised Code; 22813

(f) The district's category six special education ADM 22814
multiplied by the multiple specified in division (F) of section 22815
3317.013 of the Revised Code. 22816

(2) "State share percentage" means the percentage calculated 22817
for a district as follows: 22818

(a) Calculate the state base cost funding amount for the 22819
district for the fiscal year under division (A) of this section. 22820

If the district would not receive any state base cost funding for 22821
that year under that division, the district's state share 22822
percentage is zero. 22823

(b) If the district would receive state base cost funding 22824
under that division, in fiscal year 2006 divide that amount by an 22825
amount equal to the following: 22826

Cost-of-doing-business factor X 22827

the formula amount X 22828

adjusted formula ADM 22829

(c) If the district would receive base cost funding under 22830
that division, in fiscal year 2007 or thereafter divide that 22831
amount by an amount equal to the greater of the following: 22832

(i) Cost-of-doing-business factor for fiscal year 2006 X 22833
formula amount for fiscal year 2006 X adjusted formula ADM for 22834
fiscal year 2006; 22835

(ii) (Formula amount for the current fiscal year X current 22836
adjusted formula ADM) + the sum of the base funding supplements 22837
prescribed in divisions (B)(1) to (4) of section 3317.012 of the 22838
Revised Code. 22839

The resultant number in division (B)(2)(b) or (c) of this 22840
section is the district's state share percentage. 22841

(3) "Related services" includes: 22842

(a) Child study, special education supervisors and 22843
coordinators, speech and hearing services, adaptive physical 22844
development services, occupational or physical therapy, teacher 22845
assistants for handicapped children whose handicaps are described 22846
in division (B) of section 3317.013 or division (F)(3) of section 22847
3317.02 of the Revised Code, behavioral intervention, interpreter 22848
services, work study, nursing services, and specialized 22849
integrative services as those terms are defined by the department; 22850

(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;	22851 22852 22853
(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;	22854 22855 22856
(d) Any service included in units funded under former division (0)(1) of section 3317.023 of the Revised Code;	22857 22858
(e) Any other related service needed by handicapped children in accordance with their individualized education plans.	22859 22860
(4) The "total vocational education weight" for a district means the sum of the following amounts:	22861 22862
(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;	22863 22864 22865
(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.	22866 22867 22868
(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:	22869 22870 22871 22872
The district's state share percentage	22873
X the formula amount for the year	22874
for which the aid is calculated	22875
X the district's total special education weight	22876
(2) The attributed local share of special education and related services additional weighted costs equals:	22877 22878
(1 - the district's state share percentage) X	22879
the district's total special education weight X	22880

the formula amount 22881

(3)(a) The department shall compute and pay in accordance 22882
with this division additional state aid to school districts for 22883
students in categories two through six special education ADM. If a 22884
district's costs for the fiscal year for a student in its 22885
categories two through six special education ADM exceed the 22886
threshold catastrophic cost for serving the student, the district 22887
may submit to the superintendent of public instruction 22888
documentation, as prescribed by the superintendent, of all its 22889
costs for that student. Upon submission of documentation for a 22890
student of the type and in the manner prescribed, the department 22891
shall pay to the district an amount equal to the sum of the 22892
following: 22893

(i) One-half of the district's costs for the student in 22894
excess of the threshold catastrophic cost; 22895

(ii) The product of one-half of the district's costs for the 22896
student in excess of the threshold catastrophic cost multiplied by 22897
the district's state share percentage. 22898

(b) For purposes of division (C)(3)(a) of this section, the 22899
threshold catastrophic cost for serving a student equals: 22900

(i) For a student in the school district's category two, 22901
three, four, or five special education ADM, twenty-five thousand 22902
dollars in fiscal year 2002 ~~and~~, twenty-five thousand seven 22903
hundred dollars in fiscal years 2003, 2004, and 2005, and 22904
twenty-six thousand five hundred dollars in fiscal years 2006 and 22905
2007; 22906

(ii) For a student in the district's category six special 22907
education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, 22908
thirty thousand eight hundred forty dollars in fiscal years 2003, 22909
2004, and 2005, and thirty-one thousand eight hundred dollars in 22910
fiscal years 2006 and 2007. 22911

(c) The district shall only report under division (C)(3)(a) 22912
of this section, and the department shall only pay for, the costs 22913
of educational expenses and the related services provided to the 22914
student in accordance with the student's individualized education 22915
program. Any legal fees, court costs, or other costs associated 22916
with any cause of action relating to the student may not be 22917
included in the amount. 22918

(4)(a) As used in this division, the "personnel allowance" 22919
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 22920
~~and~~, 2005, 2006, and 2007. 22921

(b) For the provision of speech language pathology services 22922
to students, including students who do not have individualized 22923
education programs prepared for them under Chapter 3323. of the 22924
Revised Code, and for no other purpose, the department of 22925
education shall pay each school district an amount calculated 22926
under the following formula: 22927

(formula ADM divided by 2000) X 22928

the personnel allowance X the state share percentage 22929

(5) In ~~any~~ fiscal year 2006, a school district shall spend 22930
for purposes that the department designates as approved for 22931
special education and related services expenses at least the 22932
amount calculated as follows: 22933

(cost-of-doing-business factor X 22934

formula amount X the sum of categories 22935

one through six special education ADM) + 22936

(total special education weight X formula amount) 22937

In fiscal year 2007 and thereafter, a school district shall 22938
spend for those purposes at least the greater of the amount 22939
calculated under division (C)(5)(a) or (b) of this section + 22940
(total special education weight X formula amount). 22941

In making the calculation required under division (C)(5) of 22942

<u>this section, the department shall calculate for each school</u>	22943
<u>district both of the following:</u>	22944
<u>(a) Cost-of-doing-business factor for fiscal year 2006 X</u>	22945
<u>formula amount for fiscal year 2006 X the sum of categories one</u>	22946
<u>through six special education ADM for fiscal year 2006;</u>	22947
<u>(b) Formula amount for the current fiscal year X the sum of</u>	22948
<u>categories one through six special education ADM for the current</u>	22949
<u>fiscal year.</u>	22950
The purposes approved by the department for special education	22951
expenses shall include, but shall not be limited to,	22952
identification of handicapped children, compliance with state	22953
rules governing the education of handicapped children and	22954
prescribing the continuum of program options for handicapped	22955
children, provision of speech language pathology services, and the	22956
portion of the school district's overall administrative and	22957
overhead costs that are attributable to the district's special	22958
education student population.	22959
The department shall require school districts to report data	22960
annually to allow for monitoring compliance with division (C)(5)	22961
of this section. The department shall annually report to the	22962
governor and the general assembly the amount of money spent by	22963
each school district for special education and related services.	22964
(6) In any fiscal year, a school district shall spend for the	22965
provision of speech language pathology services not less than the	22966
sum of the amount calculated under division (C)(1) of this section	22967
for the students in the district's category one special education	22968
ADM and the amount calculated under division (C)(4) of this	22969
section.	22970
(D)(1) As used in this division:	22971
(a) "Daily bus miles per student" equals the number of bus	22972

miles traveled per day, divided by transportation base. 22973

(b) "Transportation base" equals total student count as 22974
defined in section 3301.011 of the Revised Code, minus the number 22975
of students enrolled in preschool handicapped units, plus the 22976
number of nonpublic school students included in transportation 22977
ADM. 22978

(c) "Transported student percentage" equals transportation 22979
ADM divided by transportation base. 22980

(d) "Transportation cost per student" equals total operating 22981
costs for board-owned or contractor-operated school buses divided 22982
by transportation base. 22983

(2) Analysis of student transportation cost data has resulted 22984
in a finding that an average efficient transportation use cost per 22985
student can be calculated by means of a regression formula that 22986
has as its two independent variables the number of daily bus miles 22987
per student and the transported student percentage. For fiscal 22988
year 1998 transportation cost data, the average efficient 22989
transportation use cost per student is expressed as follows: 22990

51.79027 + (139.62626 X daily bus miles per student) + 22991
(116.25573 X transported student percentage) 22992

The department of education shall annually determine the 22993
average efficient transportation use cost per student in 22994
accordance with the principles stated in division (D)(2) of this 22995
section, updating the intercept and regression coefficients of the 22996
regression formula modeled in this division, based on an annual 22997
statewide analysis of each school district's daily bus miles per 22998
student, transported student percentage, and transportation cost 22999
per student data. The department shall conduct the annual update 23000
using data, including daily bus miles per student, transported 23001
student percentage, and transportation cost per student data, from 23002
the prior fiscal year. The department shall notify the office of 23003

budget and management of such update by the fifteenth day of 23004
February of each year. 23005

(3) In addition to funds paid under divisions (A), (C), and 23006
(E) of this section, each district with a transported student 23007
percentage greater than zero shall receive a payment equal to a 23008
percentage of the product of the district's transportation base 23009
from the prior fiscal year times the annually updated average 23010
efficient transportation use cost per student, times an inflation 23011
factor of two and eight tenths per cent to account for the 23012
one-year difference between the data used in updating the formula 23013
and calculating the payment and the year in which the payment is 23014
made. The percentage shall be the following percentage of that 23015
product specified for the corresponding fiscal year: 23016

FISCAL YEAR	PERCENTAGE	
2000	52.5%	23017
2001	55%	23018
2002	57.5%	23019
2003 and thereafter	The greater of 60% or the district's state share percentage	23020 23021

The payments made under division (D)(3) of this section each 23022
year shall be calculated based on all of the same prior year's 23023
data used to update the formula. 23024

(4) In addition to funds paid under divisions (D)(2) and (3) 23025
of this section, a school district shall receive a rough road 23026
subsidy if both of the following apply: 23027

(a) Its county rough road percentage is higher than the 23028
statewide rough road percentage, as those terms are defined in 23029
division (D)(5) of this section; 23030

(b) Its district student density is lower than the statewide 23031
student density, as those terms are defined in that division. 23032

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

$$\frac{(\text{per rough mile subsidy} \times \text{total rough road miles}) \times \text{density multiplier}}{\text{density multiplier}}$$

where:

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

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

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

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

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

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

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

$$1 - [(\text{minimum student density} - \text{district student}$$

density)/(minimum student density - 23063
statewide student density)] 23064

(i) "Minimum student density" means the lowest district 23065
student density in the state. 23066

(ii) "District student density" means a school district's 23067
transportation base divided by the number of square miles in the 23068
district. 23069

(iii) "Statewide student density" means the sum of the 23070
transportation bases for all school districts divided by the sum 23071
of the square miles in all school districts. 23072

(6) In addition to funds paid under divisions (D)(2) to (5) 23073
of this section, each district shall receive in accordance with 23074
rules adopted by the state board of education a payment for 23075
students transported by means other than board-owned or 23076
contractor-operated buses and whose transportation is not funded 23077
under division (J) of section 3317.024 of the Revised Code. The 23078
rules shall include provisions for school district reporting of 23079
such students. 23080

(E)(1) The department shall compute and distribute state 23081
vocational education additional weighted costs funds to each 23082
school district in accordance with the following formula: 23083

state share percentage X 23084
the formula amount X 23085
total vocational education weight 23086

In any fiscal year, a school district receiving funds under 23087
division (E)(1) of this section shall spend those funds only for 23088
the purposes that the department designates as approved for 23089
vocational education expenses. Vocational educational expenses 23090
approved by the department shall include only expenses connected 23091
to the delivery of career-technical programming to 23092
career-technical students. The department shall require the school 23093

district to report data annually so that the department may 23094
monitor the district's compliance with the requirements regarding 23095
the manner in which funding received under division (E)(1) of this 23096
section may be spent. 23097

(2) The department shall compute for each school district 23098
state funds for vocational education associated services in 23099
accordance with the following formula: 23100

state share percentage X .05 X 23101

the formula amount X the sum of categories one and two 23102

vocational education ADM 23103

In any fiscal year, a school district receiving funds under 23104
division (E)(2) of this section, or through a transfer of funds 23105
pursuant to division (L) of section 3317.023 of the Revised Code, 23106
shall spend those funds only for the purposes that the department 23107
designates as approved for vocational education associated 23108
services expenses, which may include such purposes as 23109
apprenticeship coordinators, coordinators for other vocational 23110
education services, vocational evaluation, and other purposes 23111
designated by the department. The department may deny payment 23112
under division (E)(2) of this section to any district that the 23113
department determines is not operating those services or is using 23114
funds paid under division (E)(2) of this section, or through a 23115
transfer of funds pursuant to division (L) of section 3317.023 of 23116
the Revised Code, for other purposes. 23117

(F) The actual local share in any fiscal year for the 23118
combination of special education and related services additional 23119
weighted costs funding calculated under division (C)(1) of this 23120
section, transportation funding calculated under divisions (D)(2) 23121
and (3) of this section, and vocational education and associated 23122
services additional weighted costs funding calculated under 23123
divisions (E)(1) and (2) of this section shall not exceed for any 23124
school district the product of three and three-tenths mills times 23125

the district's recognized valuation. The department annually shall
pay each school district as an excess cost supplement any amount
by which the sum of the district's attributed local shares for
that funding exceeds that product. For purposes of calculating the
excess cost supplement:

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

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

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

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

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

As used in this section:

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

(2) "Educational service personnel" shall not include such

specialists funded from money paid to the district from federal 23156
sources or assigned full-time to vocational or special education 23157
students and classes and may only include those persons employed 23158
in the eight specialist areas in a pattern approved by the 23159
department of education under guidelines established by the state 23160
board of education. 23161

(3) "Annual salary" means the annual base salary stated in 23162
the state minimum salary schedule for the performance of the 23163
teacher's regular teaching duties that the teacher earns for 23164
services rendered for the first full week of October of the fiscal 23165
year for which the adjustment is made under division (C) of this 23166
section. It shall not include any salary payments for supplemental 23167
teachers contracts. 23168

(4) "Regular student population" means the formula ADM plus 23169
the number of students reported as enrolled in the district 23170
pursuant to division (A)(1) of section 3313.981 of the Revised 23171
Code; minus the number of students reported under division (A)(2) 23172
of section 3317.03 of the Revised Code; minus the FTE of students 23173
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 23174
of that section who are enrolled in a vocational education class 23175
or receiving special education; and minus twenty per cent of the 23176
students enrolled concurrently in a joint vocational school 23177
district. 23178

(5) "State share percentage" has the same meaning as in 23179
section 3317.022 of the Revised Code. 23180

(6) "VEPD" means a school district or group of school 23181
districts designated by the department of education as being 23182
responsible for the planning for and provision of vocational 23183
education services to students within the district or group. 23184

(7) "Lead district" means a school district, including a 23185
joint vocational school district, designated by the department as 23186

a VEPD, or designated to provide primary vocational education 23187
leadership within a VEPD composed of a group of districts. 23188

(B) If the district employs less than one full-time 23189
equivalent classroom teacher for each twenty-five pupils in the 23190
regular student population in any school district, deduct the sum 23191
of the amounts obtained from the following computations: 23192

(1) Divide the number of the district's full-time equivalent 23193
classroom teachers employed by one twenty-fifth; 23194

(2) Subtract the quotient in (1) from the district's regular 23195
student population; 23196

(3) Multiply the difference in (2) by seven hundred fifty-two 23197
dollars. 23198

(C) If a positive amount, add one-half of the amount obtained 23199
by multiplying the number of full-time equivalent classroom 23200
teachers by: 23201

(1) The mean annual salary of all full-time equivalent 23202
classroom teachers employed by the district at their respective 23203
training and experience levels minus; 23204

(2) The mean annual salary of all such teachers at their 23205
respective levels in all school districts receiving payments under 23206
this section. 23207

The number of full-time equivalent classroom teachers used in 23208
this computation shall not exceed one twenty-fifth of the 23209
district's regular student population. In calculating the 23210
district's mean salary under this division, those full-time 23211
equivalent classroom teachers with the highest training level 23212
shall be counted first, those with the next highest training level 23213
second, and so on, in descending order. Within the respective 23214
training levels, teachers with the highest years of service shall 23215
be counted first, the next highest years of service second, and so 23216

on, in descending order. 23217

(D) This division does not apply to a school district that 23218
has entered into an agreement under division (A) of section 23219
3313.42 of the Revised Code. Deduct the amount obtained from the 23220
following computations if the district employs fewer than five 23221
full-time equivalent educational service personnel, including 23222
elementary school art, music, and physical education teachers, 23223
counselors, librarians, visiting teachers, school social workers, 23224
and school nurses for each one thousand pupils in the regular 23225
student population: 23226

(1) Divide the number of full-time equivalent educational 23227
service personnel employed by the district by five 23228
one-thousandths; 23229

(2) Subtract the quotient in (1) from the district's regular 23230
student population; 23231

(3) Multiply the difference in (2) by ninety-four dollars. 23232

(E) If a local school district, or a city or exempted village 23233
school district to which a governing board of an educational 23234
service center provides services pursuant to section 3313.843 of 23235
the Revised Code, deduct the amount of the payment required for 23236
the reimbursement of the governing board under section 3317.11 of 23237
the Revised Code. 23238

(F)(1) If the district is required to pay to or entitled to 23239
receive tuition from another school district under division (C)(2) 23240
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 23241
or if the superintendent of public instruction is required to 23242
determine the correct amount of tuition and make a deduction or 23243
credit under section 3317.08 of the Revised Code, deduct and 23244
credit such amounts as provided in division (J) of section 3313.64 23245
or section 3317.08 of the Revised Code. 23246

(2) For each child for whom the district is responsible for 23247
tuition or payment under division (A)(1) of section 3317.082 or 23248
section 3323.091 of the Revised Code, deduct the amount of tuition 23249
or payment for which the district is responsible. 23250

(G) If the district has been certified by the superintendent 23251
of public instruction under section 3313.90 of the Revised Code as 23252
not in compliance with the requirements of that section, deduct an 23253
amount equal to ten per cent of the amount computed for the 23254
district under section 3317.022 of the Revised Code. 23255

(H) If the district has received a loan from a commercial 23256
lending institution for which payments are made by the 23257
superintendent of public instruction pursuant to division (E)(3) 23258
of section 3313.483 of the Revised Code, deduct an amount equal to 23259
such payments. 23260

(I)(1) If the district is a party to an agreement entered 23261
into under division (D), (E), or (F) of section 3311.06 or 23262
division (B) of section 3311.24 of the Revised Code and is 23263
obligated to make payments to another district under such an 23264
agreement, deduct an amount equal to such payments if the district 23265
school board notifies the department in writing that it wishes to 23266
have such payments deducted. 23267

(2) If the district is entitled to receive payments from 23268
another district that has notified the department to deduct such 23269
payments under division (I)(1) of this section, add the amount of 23270
such payments. 23271

(J) If the district is required to pay an amount of funds to 23272
a cooperative education district pursuant to a provision described 23273
by division (B)(4) of section 3311.52 or division (B)(8) of 23274
section 3311.521 of the Revised Code, deduct such amounts as 23275
provided under that provision and credit those amounts to the 23276
cooperative education district for payment to the district under 23277

division (B)(1) of section 3317.19 of the Revised Code. 23278

(K)(1) If a district is educating a student entitled to 23279
attend school in another district pursuant to a shared education 23280
contract, compact, or cooperative education agreement other than 23281
an agreement entered into pursuant to section 3313.842 of the 23282
Revised Code, credit to that educating district on an FTE basis 23283
the amounts prescribed in division (K)(1)(a) or (b) of this 23284
section as follows: 23285

(a) In fiscal year 2006, credit both of the following: 23286

~~(a)~~(i) An amount equal to the formula amount times the cost 23287
of doing business factor of the school district where the student 23288
is entitled to attend school pursuant to section 3313.64 or 23289
3313.65 of the Revised Code; 23290

~~(b)~~(ii) An amount equal to the formula amount times the state 23291
share percentage times any multiple applicable to the student 23292
pursuant to section 3317.013 or 3317.014 of the Revised Code. 23293

(b) In fiscal year 2007 and thereafter, credit both of the 23294
following: 23295

(i) An amount equal to the greater of either the product of 23296
the fiscal year 2006 formula amount times the fiscal year 2006 23297
cost-of-doing-business factor of the school district where the 23298
student is entitled to attend school pursuant to section 3313.64 23299
or 3313.65 of the Revised Code or the sum of the current formula 23300
amount plus the per pupil amount of the base funding supplements 23301
specified in divisions (B)(1) to (4) of section 3317.012 of the 23302
Revised Code. 23303

(ii) An amount equal to the current formula amount times the 23304
state share percentage times any multiple applicable to the 23305
student pursuant to section 3317.013 or 3317.014 of the Revised 23306
Code. 23307

(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(N)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of

section 3323.14 of the Revised Code, the department shall deduct 23339
that amount from the district of residence of that child. 23340

Sec. 3317.024. In addition to the moneys paid to eligible 23341
school districts pursuant to section 3317.022 of the Revised Code, 23342
moneys appropriated for the education programs in divisions (A) to 23343
(H), (J) to (L), (O), (P), and (R) of this section shall be 23344
distributed to school districts meeting the requirements of 23345
section 3317.01 of the Revised Code; in the case of divisions (J) 23346
and (P) of this section, to educational service centers as 23347
provided in section 3317.11 of the Revised Code; in the case of 23348
divisions (E), (M), and (N) of this section, to county MR/DD 23349
boards; in the case of division (R) of this section, to joint 23350
vocational school districts; in the case of division (K) of this 23351
section, to cooperative education school districts; and in the 23352
case of division (Q) of this section, to the institutions defined 23353
under section 3317.082 of the Revised Code providing elementary or 23354
secondary education programs to children other than children 23355
receiving special education under section 3323.091 of the Revised 23356
Code. The following shall be distributed monthly, quarterly, or 23357
annually as may be determined by the state board of education: 23358

(A) A per pupil amount to each school district that 23359
establishes a summer school remediation program that complies with 23360
rules of the state board of education. 23361

(B) An amount for each island school district and each joint 23362
state school district for the operation of each high school and 23363
each elementary school maintained within such district and for 23364
capital improvements for such schools. Such amounts shall be 23365
determined on the basis of standards adopted by the state board of 23366
education. 23367

(C) An amount for each school district operating classes for 23368
children of migrant workers who are unable to be in attendance in 23369

an Ohio school during the entire regular school year. The amounts 23370
shall be determined on the basis of standards adopted by the state 23371
board of education, except that payment shall be made only for 23372
subjects regularly offered by the school district providing the 23373
classes. 23374

(D) An amount for each school district with guidance, 23375
testing, and counseling programs approved by the state board of 23376
education. The amount shall be determined on the basis of 23377
standards adopted by the state board of education. 23378

(E) An amount for the emergency purchase of school buses as 23379
provided for in section 3317.07 of the Revised Code; 23380

(F) An amount for each school district required to pay 23381
tuition for a child in an institution maintained by the department 23382
of youth services pursuant to section 3317.082 of the Revised 23383
Code, provided the child was not included in the calculation of 23384
the district's average daily membership for the preceding school 23385
year. 23386

(G) In fiscal year 2000 only, an amount to each school 23387
district for supplemental salary allowances for each licensed 23388
employee except those licensees serving as superintendents, 23389
assistant superintendents, principals, or assistant principals, 23390
whose term of service in any year is extended beyond the term of 23391
service of regular classroom teachers, as described in section 23392
3301.0725 of the Revised Code; 23393

(H) An amount for adult basic literacy education for each 23394
district participating in programs approved by the state board of 23395
education. The amount shall be determined on the basis of 23396
standards adopted by the state board of education. 23397

(I) Notwithstanding section 3317.01 of the Revised Code, but 23398
only until June 30, 1999, to each city, local, and exempted 23399
village school district, an amount for conducting driver education 23400

courses at high schools for which the state board of education 23401
prescribes minimum standards and to joint vocational and 23402
cooperative education school districts and educational service 23403
centers, an amount for conducting driver education courses to 23404
pupils enrolled in a high school for which the state board 23405
prescribes minimum standards. No payments shall be made under this 23406
division after June 30, 1999. 23407

(J) An amount for the approved cost of transporting 23408
developmentally handicapped eligible pupils with disabilities 23409
attending a special education program approved by the department 23410
of education whom it is impossible or impractical to transport by 23411
regular school bus in the course of regular route transportation 23412
provided by the district or service center. No district or service 23413
center is eligible to receive a payment under this division for 23414
the cost of transporting any pupil whom it transports by regular 23415
school bus and who is included in the district's transportation 23416
ADM. The state board of education shall establish standards and 23417
guidelines for use by the department of education in determining 23418
the approved cost of such transportation for each district or 23419
service center. 23420

(K) An amount to each school district, including each 23421
cooperative education school district, pursuant to section 3313.81 23422
of the Revised Code to assist in providing free lunches to needy 23423
children and an amount to assist needy school districts in 23424
purchasing necessary equipment for food preparation. The amounts 23425
shall be determined on the basis of rules adopted by the state 23426
board of education. 23427

(L) An amount to each school district, for each pupil 23428
attending a chartered nonpublic elementary or high school within 23429
the district. The amount shall equal the amount appropriated for 23430
the implementation of section 3317.06 of the Revised Code divided 23431
by the average daily membership in grades kindergarten through 23432

twelve in nonpublic elementary and high schools within the state 23433
as determined during the first full week in October of each school 23434
year. 23435

(M) An amount for each county MR/DD board, distributed on the 23436
basis of standards adopted by the state board of education, for 23437
the approved cost of transportation required for children 23438
attending special education programs operated by the county MR/DD 23439
board under section 3323.09 of the Revised Code; 23440

(N) An amount for each county MR/DD board, distributed on the 23441
basis of standards adopted by the state board of education, for 23442
supportive home services for preschool children; 23443

(O) An amount for each school district that establishes a 23444
mentor teacher program that complies with rules of the state board 23445
of education. No school district shall be required to establish or 23446
maintain such a program in any year unless sufficient funds are 23447
appropriated to cover the district's total costs for the program. 23448

(P) An amount to each school district or educational service 23449
center for the total number of gifted units approved pursuant to 23450
section 3317.05 of the Revised Code. The amount for each such unit 23451
shall be the sum of the minimum salary for the teacher of the 23452
unit, calculated on the basis of the teacher's training level and 23453
years of experience pursuant to the salary schedule prescribed in 23454
the version of section 3317.13 of the Revised Code in effect prior 23455
to July 1, 2001, plus fifteen per cent of that minimum salary 23456
amount, plus two thousand six hundred seventy-eight dollars. 23457

(Q) An amount to each institution defined under section 23458
3317.082 of the Revised Code providing elementary or secondary 23459
education to children other than children receiving special 23460
education under section 3323.091 of the Revised Code. This amount 23461
for any institution in any fiscal year shall equal the total of 23462
all tuition amounts required to be paid to the institution under 23463

division (A)(1) of section 3317.082 of the Revised Code. 23464

(R) A grant to each school district and joint vocational 23465
school district that operates a "graduation, reality, and 23466
dual-role skills" (GRADS) program for pregnant and parenting 23467
students that is approved by the department. The amount of the 23468
payment shall be the district's state share percentage, as defined 23469
in section 3317.022 or 3317.16 of the Revised Code, times the 23470
GRADS personnel allowance times the full-time-equivalent number of 23471
GRADS teachers approved by the department. The GRADS personnel 23472
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 23473
2007. 23474

The state board of education or any other board of education 23475
or governing board may provide for any resident of a district or 23476
educational service center territory any educational service for 23477
which funds are made available to the board by the United States 23478
under the authority of public law, whether such funds come 23479
directly or indirectly from the United States or any agency or 23480
department thereof or through the state or any agency, department, 23481
or political subdivision thereof. 23482

Sec. 3317.026. (A) As used in this section, "refunded taxes" 23483
means taxes charged and payable from real and tangible personal 23484
property, including public utility property, that have been found 23485
to have been overpaid as the result of reductions in the taxable 23486
value of such property and that have been refunded, including any 23487
interest or penalty refunded with those taxes. If taxes are 23488
refunded over a period of time pursuant to division (B)(2), (3), 23489
or (4) of section 319.36 or division (C) of section 5727.471 of 23490
the Revised Code, the total amount of taxes required to be 23491
refunded, excluding any interest accruing after the day the 23492
undertaking is entered into, shall be considered to have been 23493
refunded on the day the first portion of the overpayment is paid 23494

or credited. 23495

(B) Not later than the last day of February each year, each 23496
county auditor shall certify to the tax commissioner, for each 23497
school district in the county, the amount of refunded taxes 23498
refunded in the preceding calendar year and the reductions in 23499
taxable value that resulted in those refunds, except for 23500
reductions in taxable value that previously have been reported to 23501
the tax commissioner on an abstract. If the tax commissioner 23502
determines that the amount of refunded taxes certified for a 23503
school district exceeds three per cent of the total taxes charged 23504
and payable for current expenses of the school district for the 23505
calendar year in which those taxes were refunded, the tax 23506
commissioner shall certify the reductions in taxable value that 23507
resulted in those refunds on or before the first day of June to 23508
the department of education. Upon receiving the certification by 23509
the tax commissioner, the department of education shall reduce the 23510
total taxable value of the school district, as defined in section 23511
3317.02 of the Revised Code, by the total amount of the reductions 23512
in taxable value that resulted in those refunds for the purpose of 23513
computing the ~~state aid~~ SF-3 payment for the school district for 23514
the current fiscal year ~~under section 3317.022 of the Revised~~ 23515
~~Code~~. The increase in the amount of such aid resulting from the 23516
adjustment required by this section shall be paid to the school 23517
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 23518
of the ~~current~~ following fiscal year. 23519

If an adjustment is made under this division in the amount of 23520
state aid paid to a school district, the tax value reductions from 23521
which that adjustment results shall not be used in recomputing aid 23522
to a school district under section 3317.027 of the Revised Code. 23523

~~(D)~~(C) If a school district received a grant from the 23524
catastrophic expenditures account pursuant to division (C) of 23525
section 3316.20 of the Revised Code on the basis of the same 23526

circumstances for which an adjustment is made under this section, 23527
the amount of the adjustment shall be reduced and transferred in 23528
accordance with division (C) of section 3316.20 of the Revised 23529
Code. 23530

(D) Not later than the first day of June each year, the tax 23531
commissioner shall certify to the department of education for each 23532
school district the total of the increases in taxable value above 23533
the amount of taxable value on which tax was paid, as provided in 23534
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 23535
determined by the commissioner, and for which a notification was 23536
sent pursuant to section 5727.471 of the Revised Code, in the 23537
preceding calendar year. Upon receiving the certification, the 23538
department shall increase the total taxable value, as defined in 23539
section 3317.02 of the Revised Code, of the school district by the 23540
total amount of the increase in taxable value certified by the 23541
commissioner for the school district for the purpose of computing 23542
the school district's ~~state aid~~ SF-3 payment for the following 23543
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 23544
Code. 23545

Sec. 3317.027. On or before the fifteenth day of May of each 23546
year, the tax commissioner shall certify to the department of 23547
education: 23548

(A) The amount by which applications filed under section 23549
5713.38 of the Revised Code or complaints filed under section 23550
5715.19 of the Revised Code resulted in a reduction in the second 23551
preceding year's taxable value in each school district in which 23552
such a reduction occurred, and the amount by which such reduction 23553
reduced the district's taxes charged and payable for such year; 23554
and 23555

(B) The taxes charged and payable for the second preceding 23556
tax year that were remitted under section 5713.081 of the Revised 23557

Code and the taxable value against which such taxes were imposed. 23558

Upon receipt of such certifications, the department shall 23559
recompute the ~~state aid for such year under section 3317.022 of~~ 23560
~~the Revised Code district's SF-3 payment~~ and determine the amount 23561
~~of aid that the SF-3 payment~~ would have been paid had the taxable 23562
value not been used in the computation made under division (A)(1) 23563
of section 3317.021 of the Revised Code and had the taxes charged 23564
and payable not been included in the certification made under 23565
division (A)(3) of such section. The department shall ~~adjust~~ 23566
calculate the amount that the remainder of the fiscal year's 23567
payments ~~so the district's total payments should have been~~ for the 23568
fiscal year ~~equal~~ including the amount of the ~~recomputation SF-3~~ 23569
payment as recomputed. The increase or decrease in the amount of 23570
aid resulting from the adjustment required under this section 23571
shall be paid to the school district on or before the thirty-first 23572
day of July of the following fiscal year. 23573

If a school district received a grant from the catastrophic 23574
expenditures account pursuant to division (C) of section 3316.20 23575
of the Revised Code on the basis of the same circumstances for 23576
which a recomputation is made under this section, the amount of 23577
the recomputation shall be reduced and transferred in accordance 23578
with division (C) of section 3316.20 of the Revised Code. 23579

Sec. 3317.028. (A) On or before the fifteenth day of May in 23580
each calendar year prior to calendar year 2007, the tax 23581
commissioner shall determine for each school district whether the 23582
taxable value of all tangible personal property, including utility 23583
tangible personal property, subject to taxation by the district in 23584
the preceding tax year was less or greater than the taxable value 23585
of such property during the second preceding tax year. If any such 23586
decrease exceeds five per cent of the district's tangible personal 23587
property taxable value included in the total taxable value used in 23588

computing the district's ~~state aid computation~~ SF-3 payment for 23589
the fiscal year that ends in the current calendar year, or if any 23590
such increase exceeds five per cent of the district's total 23591
taxable value used in computing the district's ~~state aid~~ 23592
~~computation~~ SF-3 payment for the fiscal year that ends in the 23593
current calendar year, the tax commissioner shall certify both of 23594
the following to the department of education: 23595

(1) The taxable value of the tangible personal property 23596
increase or decrease, including utility tangible personal property 23597
increase or decrease, which shall be considered a change in 23598
valuation; 23599

(2) The decrease or increase in taxes charged and payable on 23600
such change in taxable value calculated in the same manner as in 23601
division (A)(3) of section 3317.021 of the Revised Code. 23602

(B) ~~Notwithstanding division (A) of this section, when~~ 23603
~~determining under that division in calendar year 2002 whether the~~ 23604
~~taxable value of tangible personal property subject to taxation by~~ 23605
~~each school district in the preceding tax year was less or greater~~ 23606
~~than the taxable value of such property during the second~~ 23607
~~preceding tax year, the tax commissioner shall exclude from the~~ 23608
~~taxable value for both years the tax value loss, as defined in~~ 23609
~~section 5727.84 of the Revised Code~~ On or before May 15, 2007, and 23610
the fifteenth day of May in each calendar year thereafter, the tax 23611
commissioner shall determine for each school district whether the 23612
taxable value of all utility tangible personal property subject to 23613
taxation by the district in the preceding tax year was less or 23614
greater than the taxable value of such property during the second 23615
preceding tax year. If any decrease exceeds five per cent of the 23616
district's tangible personal property taxable value included in 23617
the total taxable value used in the district's state aid 23618
computation for the fiscal year that ends in the current calendar 23619
year, or if any increase exceeds five per cent of the district's 23620

total taxable value used in the district's state aid computation 23621
for the fiscal year that ends in the current calendar year, the 23622
tax commissioner shall certify both of the following to the 23623
department of education: 23624

(1) The taxable value of the utility tangible personal 23625
property increase or decrease, which shall be considered a change 23626
in valuation; 23627

(2) The decrease or increase in taxes charged and payable on 23628
such change in taxable value calculated in the same manner as in 23629
division (A)(3) of section 3317.021 of the Revised Code. 23630

(C) Upon receipt of ~~such a~~ certification specified in this 23631
section, the department of education shall reduce or increase by 23632
the respective amounts certified, and the taxable value and the 23633
taxes charged and payable that were used in computing the 23634
district's ~~state aid computation under section 3317.022 of the~~ 23635
~~Revised Code~~ SF-3 payment for the fiscal year that ends in the 23636
current calendar year and shall recompute the ~~state aid~~ SF-3 23637
payment for such fiscal year. ~~During the last six months of the~~ 23638
~~fiscal year, the~~ The department shall pay the district a sum equal 23639
to one-half of the recomputed payments in lieu of the payments 23640
otherwise required under ~~such sections~~ that section on or before 23641
the thirty-first day of July of the following fiscal year. 23642

(D) If a school district received a grant from the 23643
catastrophic expenditures account pursuant to division (C) of 23644
section 3316.20 of the Revised Code on the basis of the same 23645
circumstances for which a recomputation is made under this 23646
section, the amount of the recomputation shall be reduced and 23647
transferred in accordance with division (C) of section 3316.20 of 23648
the Revised Code. 23649

Sec. 3317.029. (A) As used in this section: 23650

- (1) "~~DPIA~~ Poverty percentage" means+ 23651
- ~~(a) In fiscal years prior to fiscal year 2004, the quotient~~ 23652
~~obtained by dividing the five year average number of children ages~~ 23653
~~five to seventeen residing in the school district and living in a~~ 23654
~~family receiving assistance under the Ohio works first program or~~ 23655
~~an antecedent program known as TANF or ADC, as certified or~~ 23656
~~adjusted under section 3317.10 of the Revised Code, by the~~ 23657
~~district's three year average formula ADM.~~ 23658
- ~~(b) Beginning in fiscal year 2004, the unduplicated number of~~ 23659
children ages five to seventeen residing in the school district 23660
and living in a family that has family income not exceeding the 23661
federal poverty guidelines and that receives family assistance, as 23662
certified or adjusted under section 3317.10 of the Revised Code, 23663
divided by the district's three-year average formula ADM. 23664
- (2) "Family assistance" means assistance received under one 23665
of the following: 23666
- (a) The Ohio works first program; 23667
- (b) The food stamp program; 23668
- (c) The medical assistance program, including the healthy 23669
start program, established under Chapter 5111. of the Revised 23670
Code; 23671
- (d) The children's health insurance program part I 23672
established under section 5101.50 of the Revised Code or, prior to 23673
fiscal year 2000, an executive order issued under section 107.17 23674
of the Revised Code; 23675
- (e) The disability financial assistance program established 23676
under Chapter 5115. of the Revised Code+ 23677
- ~~(f) The disability medical assistance program established~~ 23678
~~under Chapter 5115. of the Revised Code.~~ 23679
- (3) "Statewide ~~DPIA~~ poverty percentage" means+ 23680

~~(a) In fiscal years prior to fiscal year 2004, the five year average of the total number of children ages five to seventeen years residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three year average formula ADMs for all school districts in the state.~~ 23681
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~~(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.~~ 23687
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(4) "DPIA Poverty index" means the quotient obtained by dividing the school district's DPIA poverty percentage by the statewide DPIA poverty percentage. 23693
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(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code. 23696
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(6) "DPIA Poverty student count" means: 23698

~~(a) In fiscal years prior to fiscal year 2004, the five year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code:~~ 23699
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~~(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code.~~ 23705
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(7) "Kindergarten ADM" means the number of students reported 23710

under section 3317.03 of the Revised Code as enrolled in	23711
kindergarten.	23712
(8) "Kindergarten through third grade ADM" means the amount	23713
calculated as follows:	23714
(a) Multiply the kindergarten ADM by the sum of one plus the	23715
all-day kindergarten percentage;	23716
(b) Add the number of students in grades one through three;	23717
(c) Subtract from the sum calculated under division (A)(6)(b)	23718
of this section the number of special education students in grades	23719
kindergarten through three.	23720
(9) "Statewide average teacher salary" means forty two	23721
thousand four hundred sixty nine dollars in fiscal year 2002, and	23722
forty three thousand six hundred fifty eight dollars in fiscal	23723
year 2003, which includes an amount for the value of fringe	23724
benefits.	23725
(10) "All-day kindergarten" means a kindergarten class that	23726
is in session five days per week for not less than the same number	23727
of clock hours each day as for pupils in grades one through six.	23728
(11) <u>(10)</u> "All-day kindergarten percentage" means the	23729
percentage of a district's actual total number of students	23730
enrolled in kindergarten who are enrolled in all-day kindergarten.	23731
(12) <u>(11)</u> "Buildings with the highest concentration of need"	23732
means+	23733
(a) In fiscal years prior to fiscal year 2004, the school	23734
buildings in a district with percentages of students in grades	23735
kindergarten through three receiving assistance under Ohio works	23736
first at least as high as the district wide percentage of students	23737
receiving such assistance.	23738
(b) Beginning in fiscal year 2004, the school buildings in a	23739
district with percentages of students in grades kindergarten	23740

through three receiving family assistance at least as high as the 23741
district-wide percentage of students receiving family assistance. 23742

~~(e)~~ If, in any fiscal year, the information provided by the 23743
department of job and family services under section 3317.10 of the 23744
Revised Code is insufficient to determine the ~~Ohio works first or~~ 23745
family assistance percentage in each building, "buildings with the 23746
highest concentration of need" has the meaning given in rules that 23747
the department of education shall adopt. The rules shall base the 23748
definition of "buildings with the highest concentration of need" 23749
on family income of students in grades kindergarten through three 23750
in a manner that, to the extent possible with available data, 23751
approximates the intent of this division and division ~~(G)~~(K) of 23752
this section to designate buildings where the ~~Ohio works first or~~ 23753
family assistance percentage in those grades equals or exceeds the 23754
district-wide ~~Ohio works first or~~ family assistance percentage. 23755

(B) In addition to the amounts required to be paid to a 23756
school district under section 3317.022 of the Revised Code, a the 23757
department of education shall compute and distribute to each 23758
school district ~~shall receive~~ for poverty-based assistance the 23759
greater of the amount the district received in fiscal year ~~1998~~ 23760
2005 for disadvantaged pupil impact aid pursuant to division (B) 23761
of section 3317.023 of the Revised Code as it existed at that time 23762
Section 41.10 of Am. Sub. H.B. 95 of the 125th General Assembly, 23763
as amended, or the sum of the computations made under divisions 23764
(C) to ~~(E)~~(I) of this section. 23765

(C) A ~~supplemental payment that may be utilized~~ for measures 23766
related to safety and security and for remediation or similar 23767
programs, if the district's poverty index is greater than or equal 23768
to 0.25, calculated as follows: 23769

~~(1) If the DPIA index of the school district is greater than~~ 23770
~~or equal to thirty five hundredths, but less than one, an amount~~ 23771
~~obtained by multiplying the district's DPIA student count by two~~ 23772

hundred thirty dollars; 23773

~~(2) If the DPIA index of the school district is greater than 23774
or equal to one, an amount obtained by multiplying the DPIA index 23775
by two hundred thirty dollars and multiplying that product by the 23776
district's DPIA student count. 23777~~

~~Except as otherwise provided in division (F) of this section, 23778
beginning with the school year that starts July 1, 2002, each 23779
school district annually shall use at least twenty per cent of the 23780
funds calculated for the district under this division for 23781
intervention services required by section 3313.608 of the Revised 23782
Code. 23783~~

(1) If the district's poverty index is greater than or equal 23784
to 0.25, calculate the level-one amount as follows: 23785

(a) If the district's poverty index is greater than or equal 23786
to 0.25, but less than 1.25, determine the level-one amount per 23787
poverty student as follows: 23788

(0.005 X formula amount) + {(poverty index - 0.25) X [(0.02 X 23789
formula amount) - (0.005 X formula amount)]} 23790

(b) If the district's poverty index is greater than or equal 23791
to 1.25, the level-one amount per poverty student equals: 23792

0.02 X formula amount 23793

(c) Calculate the district's level-one payment as follows: 23794
level-one amount per poverty student determined under division 23795
(C)(1)(a) or (b) of this section X poverty student count X 23796
multiple 23797

Where "multiple" equals 0.50 in fiscal year 2007. 23798

(2) If the district's poverty index is greater than or equal 23799
to 1.25, determine the level-two amount, which shall be paid in 23800
addition to the level-one amount, as follows: 23801

(a) If the district's poverty index is greater than or equal 23802

to 1.25, but less than 1.75, determine the level-two amount per
poverty student, as follows:

$$\frac{(0.04 \times \text{formula amount}) + \{[(\text{poverty index} - 1.25)/0.50] \times [(0.14 \times \text{formula amount}) - (0.04 \times \text{formula amount})]\}}{1}$$

(b) If the district's poverty index is greater than or equal to 1.75, the level-two amount per poverty student equals:

$$0.14 \times \text{formula amount}$$

(c) Calculate the district's level-two payment as follows:
level-two amount per poverty student determined under division (C)(2)(a) or (b) of this section X poverty student count X multiple

Where "multiple" equals 0.50 in fiscal year 2007.

(D) A payment for all-day kindergarten if the DPIA poverty index of the school district is greater than or equal to ~~one~~ 1.0 or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:

(1) Determine or calculate a formula number of teachers per one thousand students based on the DPIA poverty index of the school district as follows:

(a) If the DPIA poverty index of the school district is less than ~~six tenths~~ 1.0, the formula number of teachers is ~~43.478~~ 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of ~~twenty-three~~ twenty to one;

(b) If the DPIA poverty index of the school district is greater than or equal to ~~six tenths~~ 1.0, but less than ~~two and~~

~~one-half 1.5~~, the formula number of teachers is calculated as 23833
follows: 23834

$$\begin{aligned} & \del{43.478 + \{[(DPIA \text{ index } 0.6) / 1.9] \times 23.188\}} & 23835 \\ & \underline{50.0 + \{[(poverty \text{ index } - 1.0) / 0.5] \times 16.667\}} & 23836 \end{aligned}$$

Where ~~43.478~~ 50.0 is the number of teachers per one thousand 23837
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 23838
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six-tenths~~ 23839
1.0 to a ~~DPIA~~ poverty index of ~~two and one-half~~ 1.5; and ~~23.188~~ 23840
16.667 is the difference in the number of teachers per one 23841
thousand students at a student-teacher ratio of fifteen to one and 23842
the number of teachers per one thousand students at a 23843
student-teacher ratio of ~~twenty-three~~ twenty to one. 23844

(c) If the ~~DPIA~~ poverty index of the school district is 23845
greater than or equal to ~~two and one-half~~ 1.5, the formula number 23846
of teachers is 66.667, which is the number of teachers per one 23847
thousand students at a student-teacher ratio of fifteen to one. 23848

(2) Multiply the formula number of teachers determined or 23849
calculated in division (E)(1) of this section by the kindergarten 23850
through third grade ADM for the district and divide that product 23851
by one thousand; 23852

(3) Calculate the number of new teachers as follows: 23853

(a) Multiply the kindergarten through third grade ADM by 23854
~~43.478~~ 50.0, which is the number of teachers per one thousand 23855
students at a student-teacher ratio of ~~twenty-three~~ twenty to one, 23856
and divide that product by one thousand; 23857

(b) Subtract the quotient obtained in division (E)(3)(a) of 23858
this section from the product in division (E)(2) of this section. 23859

(4) Multiply the greater of the difference obtained under 23860
division (E)(3) of this section or zero by the statewide average 23861
teachers salary. For this purpose, the "statewide average teacher 23862
salary" is \$56,465 in fiscal year 2006 and \$58,667 in fiscal year 23863

2007, which includes an amount for the value of fringe benefits. 23864

(F) A payment for services to limited English proficient 23865
students, if the district's poverty index is greater than or equal 23866
to 1.0 and the proportion of its students who are limited English 23867
proficient, as reported in 2003 on its school district report 23868
issued under section 3302.03 of the Revised Code for the 2002-2003 23869
school year, is greater than or equal to 2.0%, calculated as 23870
follows: 23871

(1) If the district's poverty index is greater than or equal 23872
to 1.0, but less than 2.0, determine the amount per limited 23873
English proficient student as follows: 23874

(0.12851 X formula amount) + {(poverty index - 1.0) X [(0.25702 X 23875
formula amount) - (0.12851 X formula amount)]} 23876

(2) If the district's poverty index is greater than or equal 23877
to 2.0, the amount per limited English proficient student equals: 23878

0.25702 X formula amount 23879

(3) Multiply the per student amount determined for the 23880
district under division (F)(1) or (2) of this section by the 23881
number of the district's limited English proficient students, 23882
times a multiple of 0.50 in fiscal year 2007. For purposes of this 23883
calculation in fiscal year 2007, the number of limited English 23884
proficient students for each district shall be the number 23885
determined by the department when it calculated the district's 23886
percentage of limited English students for its school district 23887
report issued in 2003 for the 2002-2003 school year. 23888

Not later than December 31, 2006, the department of education 23889
shall recommend to the general assembly and the director of budget 23890
and management a method of identifying the number of limited 23891
English proficient students for purposes of calculating payments 23892
under this division after fiscal year 2007. 23893

(G) A payment for professional development of teachers, if 23894

the district's poverty index is greater than or equal to 1.0, 23895
calculated as follows: 23896

(1) If the district's poverty index is greater than or equal 23897
to 1.0, but less than 2.0, determine the amount per teacher as 23898
follows: 23899

(poverty index - 1.0) X (0.044484 X formula amount) 23900

(2) If the district's poverty index is greater than or equal 23901
to 2.0, the amount per teacher equals: 23902

0.044484 X formula amount 23903

(3) Determine the number of teachers, as follows: 23904

(formula ADM/20) 23905

(4) Multiply the per teacher amount determined for the 23906
district under division (G)(1) or (2) of this section by the 23907
number of teachers determined under division (G)(3) of this 23908
section, times a multiple of 0.50 in fiscal year 2007. 23909

(H) A payment for dropout prevention, if the district is a 23910
big eight school district as defined in section 3314.02 of the 23911
Revised Code, calculated as follows: 23912

0.005 X formula amount X poverty index 23913
X formula ADM X multiple 23914

Where "multiple" equals 0.50 in fiscal year 2007. 23915

(I) An amount for community outreach, if the district is an 23916
urban school district as defined in section 3314.02 of the Revised 23917
Code, calculated as follows: 23918

(formula ADM/1,000) X community liaison 23919
personnel allowance X multiple 23920

Where: 23921

(1) "Community liaison personnel allowance" equals \$42,729 in 23922
fiscal year 2006 and \$44,396 in fiscal year 2007, which includes 23923
an amount for the value of fringe benefits. 23924

<u>(2) "Multiple" equals 0.50 in fiscal year 2007.</u>	23925
<u>(J) This division applies only to school districts whose DPIA poverty index is one <u>1.0</u> or greater.</u>	23926 23927
<u>(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.</u>	23928 23929 23930 23931 23932
<u>(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 utilized <u>Each school district shall use its payment under division (F) of this section for one or more of the following purposes:</u></u>	23933 23934 23935 23936 23937
<u>(a) To hire teachers for limited English proficient students or other personnel to provide intervention services for those students;</u>	23938 23939 23940
<u>(b) To contract for intervention services for those students;</u>	23941
<u>(c) To provide other services to assist those students in passing the third-grade reading achievement test, and to provide for those students the intervention services required by section 3313.608 of the Revised Code.</u>	23942 23943 23944 23945
<u>(3) Each school district may, but is not required to, use all or part of its payment under division (G) of this section for professional development of teachers or other licensed personnel providing educational services to students. Each district that elects to use its payment under division (G) of this section for that purpose shall use the payment to provide professional development only in one or more of the following areas:</u>	23946 23947 23948 23949 23950 23951 23952
<u>(a) Data-based decision making;</u>	23953
<u>(b) Standards-based curriculum models;</u>	23954

(c) Job-embedded professional development activities that are 23955
research-based, as defined in federal law. 23956

In addition, each district that elects to use its payment 23957
under division (G) of this section for such professional 23958
development shall use the payment only to implement programs 23959
identified on a list of eligible professional development programs 23960
provided by the department of education. The department annually 23961
shall provide the list to each district receiving a payment under 23962
division (G) of this section. However, a district may apply to the 23963
department for a waiver to implement an alternative professional 23964
development program in one or more of the areas specified in 23965
divisions (J)(3)(a) to (c) of this section. If the department 23966
grants the waiver, the district may use its payment under division 23967
(G) of this section to implement the alternative program. 23968

(4) Each big eight school district shall use its payment 23969
under division (H) of this section either for preventing at-risk 23970
students from dropping out of school or for the safety, security, 23971
or remediation activities described in divisions (J)(6)(a) and (b) 23972
of this section, or for a combination of those purposes. Not later 23973
than September 1, 2006, the department of education shall provide 23974
each big eight school district with a list of dropout prevention 23975
programs that it has determined are successful. The department 23976
subsequently may update the list. Each district that elects to use 23977
its payment under division (H) of this section for dropout 23978
prevention shall use the payment only to implement a dropout 23979
prevention program specified on the department's list. However, a 23980
district may apply to the department for a waiver to implement an 23981
alternative dropout prevention program. If the department grants 23982
the waiver, the district may use its payment under division (H) of 23983
this section to implement the alternative program. 23984

(5) Each urban school district that has a poverty index 23985
greater than or equal to 1.0 shall use its payment under division 23986

(I) of this section either to hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel, or for the safety, security, or remediation activities described in divisions (J)(6)(a) and (b) of this section, or for a combination of those purposes. 23987
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(6) Each school district with a poverty index greater than or equal to 1.0 shall use the amount of its payment under division (C) of this section, plus any amount of its payment under division (H) of this section that it does not use for dropout prevention programs as described in division (J)(4) of this section, plus any amount of its payment under division (I) of this section that it does not use for the community outreach purposes described in division (J)(5) of this section, for one or both of the following: 23992
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(a) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning; 24000
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(b) Remediation for students who have failed or are in danger of failing any of the tests administered pursuant to section 3301.0710 of the Revised Code. 24003
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~~Beginning with the school year that starts on July 1, 2002,~~ 24006
~~each~~ In addition, a school district may use all or a portion of its payment under division (G) of this section for the activities described in divisions (J)(6)(a) and (b) of this section. 24007
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Each school district shall use at least twenty per cent of the funds set aside for the purposes of divisions ~~(F)(2)~~(J)(6)(a) and (b) of this section to provide intervention services required by section 3313.608 of the Revised Code. 24010
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~~(3)(7)~~ Except as otherwise required by division ~~(G)(K)~~ or permitted under division ~~(K)(O)~~ of this section, all ~~other~~ remaining funds distributed under this section to districts subject to this division with a poverty index greater than or 24014
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equal to 1.0 shall be utilized for the purpose of the third grade 24018
guarantee. The third grade guarantee consists of increasing the 24019
amount of instructional attention received per pupil in 24020
kindergarten through third grade, either by reducing the ratio of 24021
students to instructional personnel or by increasing the amount of 24022
instruction and curriculum-related activities by extending the 24023
length of the school day or the school year. 24024

School districts may implement a reduction of the ratio of 24025
students to instructional personnel through any or all of the 24026
following methods: 24027

(a) Reducing the number of students in a classroom taught by 24028
a single teacher; 24029

(b) Employing full-time educational aides or educational 24030
paraprofessionals issued a permit or license under section 24031
3319.088 of the Revised Code; 24032

(c) Instituting a team-teaching method that will result in a 24033
lower student-teacher ratio in a classroom. 24034

Districts may extend the school day either by increasing the 24035
amount of time allocated for each class, increasing the number of 24036
classes provided per day, offering optional academic-related 24037
after-school programs, providing curriculum-related extra 24038
curricular activities, or establishing tutoring or remedial 24039
services for students who have demonstrated an educational need. 24040
In accordance with section 3319.089 of the Revised Code, a 24041
district extending the school day pursuant to this division may 24042
utilize a participant of the work experience program who has a 24043
child enrolled in a public school in that district and who is 24044
fulfilling the work requirements of that program by volunteering 24045
or working in that public school. If the work experience program 24046
participant is compensated, the school district may use the funds 24047
distributed under this section for all or part of the 24048

compensation. 24049

Districts may extend the school year either through adding 24050
regular days of instruction to the school calendar or by providing 24051
summer programs. 24052

~~(G)~~(K) Each district ~~subject to division (F) of this section~~ 24053
shall not expend any funds received under division (E) of this 24054
section in any school buildings that are not buildings with the 24055
highest concentration of need, unless there is a ratio of 24056
instructional personnel to students of no more than fifteen to one 24057
in each kindergarten and first grade class in all buildings with 24058
the highest concentration of need. This division does not require 24059
that the funds used in buildings with the highest concentration of 24060
need be spent solely to reduce the ratio of instructional 24061
personnel to students in kindergarten and first grade. A school 24062
district may spend the funds in those buildings in any manner 24063
permitted by division ~~(F)~~(3)~~(J)~~(7) of this section, but may not 24064
spend the money in other buildings unless the fifteen-to-one ratio 24065
required by this division is attained. 24066

~~(H)~~(L)(1) By the first day of August of each fiscal year, 24067
each school district wishing to receive any funds under division 24068
(D) of this section shall submit to the department of education an 24069
estimate of its all-day kindergarten percentage. Each district 24070
shall update its estimate throughout the fiscal year in the form 24071
and manner required by the department, and the department shall 24072
adjust payments under this section to reflect the updates. 24073

(2) Annually by the end of December, the department of 24074
education, utilizing data from the information system established 24075
under section 3301.0714 of the Revised Code and after consultation 24076
with the legislative office of education oversight, shall 24077
determine for each school district subject to division ~~(F)~~(J) of 24078
this section whether in the preceding fiscal year the district's 24079

ratio of instructional personnel to students and its number of 24080
kindergarten students receiving all-day kindergarten appear 24081
reasonable, given the amounts of money the district received for 24082
that fiscal year pursuant to divisions (D) and (E) of this 24083
section. If the department is unable to verify from the data 24084
available that students are receiving reasonable amounts of 24085
instructional attention and all-day kindergarten, given the funds 24086
the district has received under this section and that class-size 24087
reduction funds are being used in school buildings with the 24088
highest concentration of need as required by division ~~(G)~~(K) of 24089
this section, the department shall conduct a more intensive 24090
investigation to ensure that funds have been expended as required 24091
by this section. The department shall file an annual report of its 24092
findings under this division with the chairpersons of the 24093
committees in each house of the general assembly dealing with 24094
finance and education. 24095

~~(I) Any (M)(1) Each~~ school district with a ~~DPIA~~ poverty index 24096
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 24097
seventeen thousand five hundred shall first utilize funds received 24098
under this section so that, when combined with other funds of the 24099
district, sufficient funds exist to provide all-day kindergarten 24100
to at least the number of children in the district's all-day 24101
kindergarten percentage. ~~Such a district~~ 24102

(2) Each school district with a poverty index less than 1.0 24103
that receives a payment under division (I) of this section shall 24104
use its payment under that division for one or both of the 24105
following purposes: 24106

(a) To hire or contract for community liaison officers, 24107
attendance or truant officers, or safety and security personnel; 24108

(b) To implement any of the safety, security, or remediation 24109
activities described in divisions (J)(6)(a) and (b) of this 24110
section. 24111

<u>(3) Each school district to which division (M)(1) or (2) of</u>	24112
<u>this section applies shall expend at least seventy per cent of the</u>	24113
remaining funds received under this section, and any other	24114
district with a DPIA <u>poverty</u> index less than one <u>1.0</u> shall expend	24115
at least seventy per cent of all funds received under this	24116
section, for any of the following purposes:	24117
(1)(a) <u>The purchase of technology for instructional purposes</u>	24118
<u>for remediation;</u>	24119
(2)(b) <u>All-day kindergarten;</u>	24120
(3)(c) <u>Reduction of class sizes in grades kindergarten</u>	24121
<u>through three, as described in division (J)(7) of this section;</u>	24122
(4)(d) <u>Summer school remediation;</u>	24123
(5)(e) <u>Dropout prevention programs approved by the department</u>	24124
<u>of education under division (J)(4) of this section;</u>	24125
(6)(f) <u>Guaranteeing that all third graders are ready to</u>	24126
<u>progress to more advanced work;</u>	24127
(7)(g) <u>Summer education and work programs;</u>	24128
(8)(h) <u>Adolescent pregnancy programs;</u>	24129
(9)(i) <u>Head start or preschool programs;</u>	24130
(10)(j) <u>Reading improvement and remediation programs</u>	24131
<u>described by the department of education;</u>	24132
(11)(k) <u>Programs designed to ensure that schools are free of</u>	24133
<u>drugs and violence and have a disciplined environment conducive to</u>	24134
<u>learning;</u>	24135
(12)(l) <u>Furnishing, free of charge, materials used in courses</u>	24136
<u>of instruction, except for the necessary textbooks or electronic</u>	24137
<u>textbooks required to be furnished without charge pursuant to</u>	24138
<u>section 3329.06 of the Revised Code, to pupils living in families</u>	24139
<u>participating in Ohio works first in accordance with section</u>	24140

3313.642 of the Revised Code; 24141

~~(I)~~(M) School breakfasts provided pursuant to section 24142
3313.813 of the Revised Code. 24143

~~Each district shall submit to the department, in such format 24144
and at such time as the department shall specify, a report on the 24145
programs for which it expended funds under this division. 24146~~

~~(J)~~(N) If at any time the superintendent of public 24147
instruction determines that a school district receiving funds 24148
under division (D) of this section has enrolled less than the 24149
all-day kindergarten percentage reported for that fiscal year, the 24150
superintendent shall withhold from the funds otherwise due the 24151
district under this section a proportional amount as determined by 24152
the difference in the certified all-day kindergarten percentage 24153
and the percentage actually enrolled in all-day kindergarten. 24154

The superintendent shall also withhold an appropriate amount 24155
of funds otherwise due a district for any other misuse of funds 24156
not in accordance with this section. 24157

~~(K)~~(O)(1) A district may use a portion of the funds 24158
calculated for it under division (D) of this section to modify or 24159
purchase classroom space to provide all-day kindergarten, if both 24160
of the following conditions are met: 24161

(a) The district certifies to the department, in a manner 24162
acceptable to the department, that it has a shortage of space for 24163
providing all-day kindergarten. 24164

(b) The district provides all-day kindergarten to the number 24165
of children in the all-day kindergarten percentage it certified 24166
under this section. 24167

(2) A district may use a portion of the funds described in 24168
division ~~(F)~~(3)(J)(7) of this section to modify or purchase 24169
classroom space to enable it to further reduce class size in 24170

grades kindergarten through two with a goal of attaining class 24171
sizes of fifteen students per licensed teacher. To do so, the 24172
district must certify its need for additional space to the 24173
department, in a manner satisfactory to the department. 24174

Sec. 3317.0212. Division (B) of this section does not apply 24175
to a school district with a formula ADM of one hundred fifty or 24176
less. 24177

(A) As used in this section: 24178

(1) "Fundamental FY 1997 state aid" or "fundamental FY 1998 24179
state aid" for a district means the total amount of state money 24180
received by the district for the applicable fiscal year as 24181
reported on the department of education's form "SF-12," adjusted 24182
as follows: 24183

(a) Minus the amount for transportation; 24184

(b) Minus any amounts for approved preschool handicapped 24185
units; 24186

(c) Minus any additional amount attributable to the 24187
reappraisal guarantee of division (C) of section 3317.04 of the 24188
Revised Code; 24189

(d) Plus the amount deducted for payments to an educational 24190
service center; 24191

(e) Plus an estimated portion of the state money distributed 24192
in the applicable fiscal year to other school districts or 24193
educational service centers for approved units, other than 24194
preschool handicapped or gifted education units, attributable to 24195
the costs of providing services in those units to students 24196
entitled to attend school in the district; 24197

(f) Minus an estimated portion of the state money distributed 24198
to the school district in the applicable fiscal year for approved 24199
units, other than preschool handicapped units or gifted education 24200

units, attributable to the costs of providing services in those 24201
units to students entitled to attend school in another school 24202
district; 24203

(g) Plus any additional amount paid in the applicable fiscal 24204
year pursuant to the vocational education recomputation required 24205
by Section 45.12 of Amended Substitute House Bill No. 117 of the 24206
121st general assembly or former Section 50.22 of Amended 24207
Substitute House Bill No. 215 of the 122nd general assembly; 24208

(h) Plus any additional amount paid in the applicable fiscal 24209
year pursuant to the special education recomputation required by 24210
former division (I) of section 3317.023 of the Revised Code; 24211

(i) Plus any amount paid for equity aid in the applicable 24212
fiscal year under former section 3317.0213 of the Revised Code; 24213

(j) Plus any amount received for the applicable fiscal year 24214
pursuant to section 3317.027 of the Revised Code; 24215

(k) Plus any amount received for the applicable fiscal year 24216
resulting from a recomputation made under division (B) of section 24217
3317.022 of the Revised Code, as that section existed in the 24218
applicable fiscal year. 24219

(2) "State basic aid" for a district for any fiscal year 24220
after fiscal year 1999 means the sum of the following: 24221

(a) The amount computed for the district for base cost 24222
funding, special education funding, and vocational education 24223
funding under divisions (A), (C)(1) and (4), and (E) of section 24224
3317.022 and sections 3317.025 and 3317.027 of the Revised Code 24225
and ~~DPIA aid under~~ the subsidy prescribed in section 3317.029 of 24226
the Revised Code in the current fiscal year before any deduction 24227
or credit required by division (B), (D), (E), (F), (G), (H), (I), 24228
(J), (K), ~~or~~ (L), (M), or (N) of section 3317.023 or division 24229
~~(J)~~(N) of section 3317.029 of the Revised Code; 24230

(b) Any amounts for which the district is eligible pursuant to division (C) of section 3317.023, divisions (G), (P), and (R) of section 3317.024, and the supplemental unit allowance paid for gifted units under division (B) of section 3317.053 of the Revised Code+ 24231
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~~(c) Any equity aid for which the district is eligible under section 3317.0213 of the Revised Code. 24236
24237~~

(B) Upon request of the department of education, the treasurer of any school district or educational service center shall furnish data needed to calculate the amounts specified in divisions (A)(1)(e) and (f) of this section. The department shall compute and pay the state basic aid guarantee for each school district for the fiscal year as follows: 24238
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(1) Subtract the amount of state basic aid from the amount of fundamental FY 1998 state aid. If a negative number, this computation shall be deemed to be zero. 24244
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(2) Pay the district the following: 24247

(a) In any fiscal year prior to fiscal year 2007, any positive amount calculated under division (B)(1) of this section; 24248
24249

(b) In fiscal year 2007, any positive amount calculated under division (B)(1) of this section times 0.50. 24250
24251

(C)(1) The state basic aid guarantee in any fiscal year for a school district with a formula ADM of one hundred fifty or less shall be the greatest of the following amounts: 24252
24253
24254

(a) The district's state basic aid for the fiscal year; 24255

(b) The district's fundamental FY 1998 state aid; 24256

(c) The district's fundamental FY 1997 state aid. 24257

(2) If in any fiscal year the state basic aid for a school district with a formula ADM of one hundred fifty or less is less 24258
24259

than the guarantee amount determined for the district under 24260
division (C)(1) of this section, the department of education shall 24261
pay the district the amount of the difference. 24262

Sec. 3317.0216. (A) As used in this section: 24263

(1) "Total taxes charged and payable for current expenses" 24264
means the sum of the taxes charged and payable as certified under 24265
division (A)(3)(a) of section 3317.021 of the Revised Code less 24266
any amounts reported under division (A)(3)(b) of that section, and 24267
the tax distribution for the preceding year under any school 24268
district income tax levied by the district pursuant to Chapter 24269
5748. of the Revised Code to the extent the revenue from the 24270
income tax is allocated or apportioned to current expenses. 24271

(2) "Charge-off amount" means ~~the product obtained by~~ 24272
~~multiplying~~ [two and three-tenths per cent multiplied by (the sum 24273
of recognized valuation and incentive district tax-exempt value)] 24274
plus (fifty per cent multiplied by payments in lieu of taxes). 24275

(3) Until fiscal year 2003, the "actual local share of 24276
special education, transportation, and vocational education 24277
funding" for any school district means the sum of the district's 24278
attributed local shares described in divisions (F)(1) to (3) of 24279
section 3317.022 of the Revised Code. Beginning in fiscal year 24280
2003, the "actual local share of special education, 24281
transportation, and vocational education funding" means that sum 24282
minus the amount of any excess cost supplement payment calculated 24283
for the district under division (F) of section 3317.022 of the 24284
Revised Code. 24285

(B) Upon receiving the certifications under section 3317.021 24286
of the Revised Code, the department of education shall determine 24287
for each city, local, and exempted village school district whether 24288
the district's charge-off amount is greater than the district's 24289

total taxes charged and payable for current expenses, and if it 24290
is, shall pay the district the amount of the difference. A payment 24291
shall not be made to any school district for which the computation 24292
under division (A) of section 3317.022 of the Revised Code equals 24293
zero. 24294

(C)(1) If a district's charge-off amount is equal to or 24295
greater than its total taxes charged and payable for current 24296
expenses, the department shall, in addition to the payment 24297
required under division (B) of this section, pay the district the 24298
amount of its actual local share of special education, 24299
transportation, and vocational education funding. 24300

(2) If a district's charge-off amount is less than its total 24301
taxes charged and payable for current expenses, the department 24302
shall pay the district any amount by which its actual local share 24303
of special education, transportation, and vocational education 24304
funding exceeds its total taxes charged and payable for current 24305
expenses minus its charge-off amount. 24306

(D) If a school district that received a payment under 24307
division (B) or (C) of this section in the prior fiscal year is 24308
ineligible for payment under those divisions in the current fiscal 24309
year, the department shall determine if the ineligibility is the 24310
result of a property tax or income tax levy approved by the 24311
district's voters to take effect in tax year 2005 or thereafter. 24312
If the department determines that is the case, and calculates that 24313
the levy causing the ineligibility exceeded by at least one mill 24314
the equivalent millage of the prior year's payment under divisions 24315
(B) and (C) of this section, the department shall make a payment 24316
to the district for the first three years that the district loses 24317
eligibility for payment under divisions (B) and (C) of this 24318
section, as follows: 24319

(1) In the first year of ineligibility, the department shall 24320

<u>pay the district seventy-five per cent of the amount it last paid</u>	24321
<u>the district under divisions (B) and (C) of this section.</u>	24322
<u>(2) In the second year of ineligibility, the department shall</u>	24323
<u>pay the district fifty per cent of the amount it last paid the</u>	24324
<u>district under those divisions.</u>	24325
<u>(3) In the third year of ineligibility, the department shall</u>	24326
<u>pay the district twenty-five per cent of the amount it last paid</u>	24327
<u>the district under those divisions.</u>	24328
<u>(E) A district that receives payment under division (D) of</u>	24329
<u>this section and subsequently qualifies for payment under division</u>	24330
<u>(B) or (C) of this section is ineligible for future payments under</u>	24331
<u>division (D) of this section.</u>	24332
Sec. 3317.0217. The department of education shall annually	24333
compute and pay state parity aid to school districts, as follows:	24334
(A) Calculate the local wealth per pupil of each school	24335
district, which equals the following sum:	24336
(1) Two-thirds times the quotient of (a) the district's	24337
recognized valuation divided by (b) its <u>adjusted</u> formula ADM; plus	24338
(2) One-third times the quotient of (a) the average of the	24339
total federal adjusted gross income of the school district's	24340
residents for the three years most recently reported under section	24341
3317.021 of the Revised Code divided by (b) its <u>adjusted</u> formula	24342
ADM.	24343
(B) Rank all school districts in order of local wealth per	24344
pupil, from the district with the lowest local wealth per pupil to	24345
the district with the highest local wealth per pupil.	24346
(C) Compute the per pupil state parity aid funding for each	24347
school district in accordance with the following formula:	24348
Payment percentage X (threshold local wealth	24349

per pupil - the district's local 24350

wealth per pupil) X 0.0095 24351

Where: 24352

(1) "Payment percentage," for purposes of division (C) of 24353
this section, equals 20% in fiscal year 2002, 40% in fiscal year 24354
2003, 58% in fiscal year 2004, 76% in fiscal year 2005, ~~and 100%~~ 24355
~~after fiscal year 2005~~ 80% in fiscal year 2006, and 85% in fiscal 24356
year 2007. 24357

(2) Nine and one-half mills (0.0095) is the general 24358
assembly's determination of the average number of effective 24359
operating mills that districts in the seventieth to ninetieth 24360
percentiles of valuations per pupil collected in fiscal year 2001 24361
above the revenues required to finance their attributed local 24362
shares of the calculated cost of an adequate education. This was 24363
determined by (a) adding the district revenues from operating 24364
property tax levies and income tax levies, (b) subtracting from 24365
that total the sum of (i) twenty-three mills times adjusted 24366
recognized valuation plus (ii) the attributed local shares of 24367
special education, transportation, and vocational education 24368
funding as described in divisions (F)(1) to (3) of section 24369
3317.022 of the Revised Code, and (c) converting the result to an 24370
effective operating property tax rate. 24371

(3) The "threshold local wealth per pupil" is the local 24372
wealth per pupil of the school district with the 24373
four-hundred-ninetieth lowest local wealth per pupil. 24374

If the result of the calculation for a school district under 24375
division (C) of this section is less than zero, the district's per 24376
pupil parity aid shall be zero. 24377

(D) Compute the per pupil alternative parity aid for each 24378
school district that has a combination of an income factor of 1.0 24379
or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 24380

2006 cost-of-doing-business factor of 1.0375 or greater, in accordance with the following formula:	24381
Payment percentage X \$60,000 X	24382
(1 - income factor) X 4/15 X 0.023	24383
Where:	24384
(1) "DPIA Poverty index" has the same meaning as in section 3317.029 of the Revised Code.	24385
(2) "Payment percentage," for purposes of division (D) of this section, equals 50% in fiscal year 2002 and 100% after fiscal year 2002.	24386
(E) Pay each district that has a combination of an income factor of <u>1.0</u> or less, a <u>DPIA poverty</u> index of 1.0 or greater, and a <u>fiscal year 2006</u> cost-of-doing-business factor of 1.0375 or greater, the greater of the following:	24387
(1) The product of the district's per pupil parity aid calculated under division (C) of this section times its formula ADM;	24388
(2) The product of its per pupil alternative parity aid calculated under division (D) of this section times its formula ADM.	24389
(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its formula ADM.	24390
Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.	24391
(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the	24392
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state board of education on or before the fifteenth day of October 24411
in each year for the first full school week in October the formula 24412
ADM, ~~which~~. Beginning in fiscal year 2006, each superintendent 24413
also shall certify to the state board, for the schools under the 24414
superintendent's supervision, the formula ADM for the week 24415
established for regular administration of the achievement tests 24416
prescribed under divisions (A)(1)(b) to (f) of section 3301.0710 24417
of the Revised Code. Each superintendent shall certify the second 24418
annual formula ADM no later than two weeks after the regular test 24419
administration. The formula ADM shall consist of the average daily 24420
membership during such week of the sum of the following: 24421

(1) On an FTE basis, the number of students in grades 24422
kindergarten through twelve receiving any educational services 24423
from the district, except that the following categories of 24424
students shall not be included in the determination: 24425

(a) Students enrolled in adult education classes; 24426

(b) Adjacent or other district students enrolled in the 24427
district under an open enrollment policy pursuant to section 24428
3313.98 of the Revised Code; 24429

(c) Students receiving services in the district pursuant to a 24430
compact, cooperative education agreement, or a contract, but who 24431
are entitled to attend school in another district pursuant to 24432
section 3313.64 or 3313.65 of the Revised Code; 24433

(d) Students for whom tuition is payable pursuant to sections 24434
3317.081 and 3323.141 of the Revised Code. 24435

(2) On an FTE basis, the number of students entitled to 24436
attend school in the district pursuant to section 3313.64 or 24437
3313.65 of the Revised Code, but receiving educational services in 24438
grades kindergarten through twelve from one or more of the 24439
following entities: 24440

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school~~+~~, but excluding any enrollment in an internet- or computer-based community school as defined in section 3314.02 of the Revised Code. No school district shall include in formula ADM any enrollment in an internet- or computer-based community school.

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract.

(3) Twenty per cent 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;

(4) The number of handicapped children, other than

handicapped preschool children, entitled to attend school in the 24471
district pursuant to section 3313.64 or 3313.65 of the Revised 24472
Code who are placed with a county MR/DD board, minus the number of 24473
such children placed with a county MR/DD board in fiscal year 24474
1998. If this calculation produces a negative number, the number 24475
reported under division (A)(4) of this section shall be zero. 24476

(B) To enable the department of education to obtain the data 24477
needed to complete the calculation of payments pursuant to this 24478
chapter, in addition to the formula ADM, each superintendent shall 24479
report separately the following student counts for the same week 24480
for which formula ADM is certified: 24481

(1) The total average daily membership in regular day classes 24482
included in the report under division (A)(1) or (2) of this 24483
section for kindergarten, and each of grades one through twelve in 24484
schools under the superintendent's supervision; 24485

(2) The number of all handicapped preschool children enrolled 24486
as of the first day of December in classes in the district that 24487
are eligible for approval under division (B) of section 3317.05 of 24488
the Revised Code and the number of those classes, which shall be 24489
reported not later than the fifteenth day of December, in 24490
accordance with rules adopted under that section; 24491

(3) The number of children entitled to attend school in the 24492
district pursuant to section 3313.64 or 3313.65 of the Revised 24493
Code who are participating: 24494

(a) Participating in a pilot project scholarship program 24495
established under sections 3313.974 to 3313.979 of the Revised 24496
Code as described in division (I)(2)(a) or (b) of this section, ~~7~~ 24497
~~are enrolled;~~ 24498

(b) Enrolled in a college under Chapter 3365. of the Revised 24499
Code, except when the student is enrolled in the college while 24500
also enrolled in a community school pursuant to Chapter 3314. of 24501

the Revised Code, are enrolled;	24502
(c) <u>Enrolled</u> in an adjacent or other school district under	24503
section 3313.98 of the Revised Code, are enrolled;	24504
(d) <u>Enrolled</u> in a community school established under Chapter	24505
3314. of the Revised Code <u>that is not an internet- or</u>	24506
<u>computer-based community school as defined in section 3314.02 of</u>	24507
<u>the Revised Code</u> , including any participation in a college	24508
pursuant to Chapter 3365. of the Revised Code while enrolled in	24509
such community school, or are participating;	24510
(e) <u>Enrolled in an internet- or computer-based community</u>	24511
<u>school, as defined in section 3314.02 of the Revised Code,</u>	24512
<u>including any participation in a college pursuant to Chapter 3365.</u>	24513
<u>of the Revised Code while enrolled in the school;</u>	24514
(f) <u>Enrolled in a registered private school with a</u>	24515
<u>scholarship paid under section 3310.08 of the Revised Code;</u>	24516
(g) <u>Participating</u> in a program operated by a county MR/DD	24517
board or a state institution;	24518
(4) The number of pupils enrolled in joint vocational	24519
schools;	24520
(5) The average daily membership of handicapped children	24521
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24522
receiving special education services for the category one handicap	24523
described in division (A) of section 3317.013 of the Revised Code;	24524
(6) The average daily membership of handicapped children	24525
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24526
receiving special education services for category two handicaps	24527
described in division (B) of section 3317.013 of the Revised Code;	24528
(7) The average daily membership of handicapped children	24529
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24530
receiving special education services for category three handicaps	24531

described in division (C) of section 3317.013 of the Revised Code;	24532
(8) The average daily membership of handicapped children	24533
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24534
receiving special education services for category four handicaps	24535
described in division (D) of section 3317.013 of the Revised Code;	24536
(9) The average daily membership of handicapped children	24537
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24538
receiving special education services for the category five	24539
handicap described in division (E) of section 3317.013 of the	24540
Revised Code;	24541
(10) The average daily membership of handicapped children	24542
reported under division (A)(1) or (2) <u>or (B)(3)(e)</u> of this section	24543
receiving special education services for category six handicaps	24544
described in division (F) of section 3317.013 of the Revised Code;	24545
(11) The average daily membership of pupils reported under	24546
division (A)(1) or (2) of this section enrolled in category one	24547
vocational education programs or classes, described in division	24548
(A) of section 3317.014 of the Revised Code, operated by the	24549
school district or by another district, other than a joint	24550
vocational school district, or by an educational service center;	24551
(12) The average daily membership of pupils reported under	24552
division (A)(1) or (2) of this section enrolled in category two	24553
vocational education programs or services, described in division	24554
(B) of section 3317.014 of the Revised Code, operated by the	24555
school district or another school district, other than a joint	24556
vocational school district, or by an educational service center;	24557
(13) The average number of children transported by the school	24558
district on board-owned or contractor-owned and -operated buses,	24559
reported in accordance with rules adopted by the department of	24560
education;	24561
(14)(a) The number of children, other than handicapped	24562

preschool children, the district placed with a county MR/DD board	24563
in fiscal year 1998;	24564
(b) The number of handicapped children, other than	24565
handicapped preschool children, placed with a county MR/DD board	24566
in the current fiscal year to receive special education services	24567
for the category one handicap described in division (A) of section	24568
3317.013 of the Revised Code;	24569
(c) The number of handicapped children, other than	24570
handicapped preschool children, placed with a county MR/DD board	24571
in the current fiscal year to receive special education services	24572
for category two handicaps described in division (B) of section	24573
3317.013 of the Revised Code;	24574
(d) The number of handicapped children, other than	24575
handicapped preschool children, placed with a county MR/DD board	24576
in the current fiscal year to receive special education services	24577
for category three handicaps described in division (C) of section	24578
3317.013 of the Revised Code;	24579
(e) The number of handicapped children, other than	24580
handicapped preschool children, placed with a county MR/DD board	24581
in the current fiscal year to receive special education services	24582
for category four handicaps described in division (D) of section	24583
3317.013 of the Revised Code;	24584
(f) The number of handicapped children, other than	24585
handicapped preschool children, placed with a county MR/DD board	24586
in the current fiscal year to receive special education services	24587
for the category five handicap described in division (E) of	24588
section 3317.013 of the Revised Code;	24589
(g) The number of handicapped children, other than	24590
handicapped preschool children, placed with a county MR/DD board	24591
in the current fiscal year to receive special education services	24592
for category six handicaps described in division (F) of section	24593

3317.013 of the Revised Code. 24594

(C)(1) Except as otherwise provided in this section for 24595
kindergarten students, the average daily membership in divisions 24596
(B)(1) to (12) of this section shall be based upon the number of 24597
full-time equivalent students. The state board of education shall 24598
adopt rules defining full-time equivalent students and for 24599
determining the average daily membership therefrom for the 24600
purposes of divisions (A), (B), and (D) of this section. 24601

(2) A student enrolled in a community school established 24602
under Chapter 3314. of the Revised Code shall be counted in the 24603
formula ADM and, if applicable, the category one, two, three, 24604
four, five, or six special education ADM of the school district in 24605
which the student is entitled to attend school under section 24606
3313.64 or 3313.65 of the Revised Code for the same proportion of 24607
the school year that the student is counted in the enrollment of 24608
the community school for purposes of section 3314.08 of the 24609
Revised Code. 24610

(3) No child shall be counted as more than a total of one 24611
child in the sum of the average daily memberships of a school 24612
district under division (A), divisions (B)(1) to (12), or division 24613
(D) of this section, except as follows: 24614

(a) A child with a handicap described in section 3317.013 of 24615
the Revised Code may be counted both in formula ADM and in 24616
category one, two, three, four, five, or six special education ADM 24617
and, if applicable, in category one or two vocational education 24618
ADM. As provided in division (C) of section 3317.02 of the Revised 24619
Code, such a child shall be counted in category one, two, three, 24620
four, five, or six special education ADM in the same proportion 24621
that the child is counted in formula ADM. 24622

(b) A child enrolled in vocational education programs or 24623
classes described in section 3317.014 of the Revised Code may be 24624

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,~~
Beginning in fiscal year 2006, each superintendent also shall
certify to the state superintendent the formula ADM for the week
established for regular administration of the achievement tests
prescribed under divisions (A)(1)(b) to (f) of section 3301.0710
of the Revised Code. Each superintendent shall certify the second
annual formula ADM no later than two weeks after the regular test
administration. The formula ADM, 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:	24657
(a) Students enrolled in adult education classes;	24658
(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;	24659 24660 24661
(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;	24662 24663 24664 24665 24666
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	24667 24668
(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students <u>for the same week for which formula ADM is certified</u> :	24669 24670 24671 24672 24673 24674 24675
(a) Students enrolled in each grade included in the joint vocational district schools;	24676 24677
(b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	24678 24679 24680
(c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;	24681 24682 24683
(d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	24684 24685 24686

(e) Handicapped children receiving special education services	24687
for category four handicaps described in division (D) of section	24688
3317.013 of the Revised Code;	24689
(f) Handicapped children receiving special education services	24690
for the category five handicap described in division (E) of	24691
section 3317.013 of the Revised Code;	24692
(g) Handicapped children receiving special education services	24693
for category six handicaps described in division (F) of section	24694
3317.013 of the Revised Code;	24695
(h) Students receiving category one vocational education	24696
services, described in division (A) of section 3317.014 of the	24697
Revised Code;	24698
(i) Students receiving category two vocational education	24699
services, described in division (B) of section 3317.014 of the	24700
Revised Code.	24701
The superintendent of each joint vocational school district	24702
shall also indicate the city, local, or exempted village school	24703
district in which each joint vocational district pupil is entitled	24704
to attend school pursuant to section 3313.64 or 3313.65 of the	24705
Revised Code.	24706
(E) In each school of each city, local, exempted village,	24707
joint vocational, and cooperative education school district there	24708
shall be maintained a record of school membership, which record	24709
shall accurately show, for each day the school is in session, the	24710
actual membership enrolled in regular day classes. For the purpose	24711
of determining average daily membership, the membership figure of	24712
any school shall not include any pupils except those pupils	24713
described by division (A) of this section. The record of	24714
membership for each school shall be maintained in such manner that	24715
no pupil shall be counted as in membership prior to the actual	24716
date of entry in the school and also in such manner that where for	24717

any cause a pupil permanently withdraws from the school that pupil 24718
shall not be counted as in membership from and after the date of 24719
such withdrawal. There shall not be included in the membership of 24720
any school any of the following: 24721

(1) Any pupil who has graduated from the twelfth grade of a 24722
public high school; 24723

(2) Any pupil who is not a resident of the state; 24724

(3) Any pupil who was enrolled in the schools of the district 24725
during the previous school year when tests were administered under 24726
section 3301.0711 of the Revised Code but did not take one or more 24727
of the tests required by that section and was not excused pursuant 24728
to division (C)(1) or (3) of that section; 24729

(4) Any pupil who has attained the age of twenty-two years, 24730
except for veterans of the armed services whose attendance was 24731
interrupted before completing the recognized twelve-year course of 24732
the public schools by reason of induction or enlistment in the 24733
armed forces and who apply for reenrollment in the public school 24734
system of their residence not later than four years after 24735
termination of war or their honorable discharge. 24736

If, however, any veteran described by division (E)(4) of this 24737
section elects to enroll in special courses organized for veterans 24738
for whom tuition is paid under the provisions of federal laws, or 24739
otherwise, that veteran shall not be included in average daily 24740
membership. 24741

Notwithstanding division (E)(3) of this section, the 24742
membership of any school may include a pupil who did not take a 24743
test required by section 3301.0711 of the Revised Code if the 24744
superintendent of public instruction grants a waiver from the 24745
requirement to take the test to the specific pupil. The 24746
superintendent may grant such a waiver only for good cause in 24747
accordance with rules adopted by the state board of education. 24748

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the ~~first full school week in October~~ for which the formula ADM is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped children currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.

(2) If on the first school day of April the total number of

classes or units for handicapped preschool children that are 24781
eligible for approval under division (B) of section 3317.05 of the 24782
Revised Code exceeds the number of units that have been approved 24783
for the year under that division, the superintendent of schools of 24784
any city, exempted village, or cooperative education school 24785
district or educational service center shall make the 24786
certifications required by this section for that day. If the 24787
department determines additional units can be approved for the 24788
fiscal year within any limitations set forth in the acts 24789
appropriating moneys for the funding of such units, the department 24790
shall approve additional units for the fiscal year on the basis of 24791
such average daily membership. For each unit so approved, the 24792
department shall pay an amount computed in the manner prescribed 24793
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 24794
Code. 24795

(3) If a student attending a community school under Chapter 24796
3314. of the Revised Code is not included in the formula ADM 24797
~~certified for the first full school week of October~~ for the school 24798
district in which the student is entitled to attend school under 24799
section 3313.64 or 3313.65 of the Revised Code, the department of 24800
education shall adjust the formula ADM of that school district to 24801
include the community school student in accordance with division 24802
(C)(2) of this section, and shall recalculate the school 24803
district's payments under this chapter for the entire fiscal year 24804
on the basis of that adjusted formula ADM. This requirement 24805
applies regardless of whether the student was enrolled, as defined 24806
in division (E) of this section, in the community school during 24807
the first full school week in October. 24808

(G)(1)(a) The superintendent of an institution operating a 24809
special education program pursuant to section 3323.091 of the 24810
Revised Code shall, for the programs under such superintendent's 24811
supervision, certify to the state board of education ~~the, in the~~ 24812

<u>manner prescribed by the superintendent of public instruction,</u>	24813
<u>both of the following:</u>	24814
<u>(i) The average daily membership of all handicapped children</u>	24815
<u>other than handicapped preschool children receiving services at</u>	24816
<u>the institution for each category of handicap described in</u>	24817
<u>divisions (A) to (F) of section 3317.013 of the Revised Code;</u>	24818
<u>(ii) The average daily membership of all handicapped</u>	24819
<u>preschool children in classes or programs approved annually by the</u>	24820
<u>department of education, in the manner prescribed by the</u>	24821
<u>superintendent of public instruction for unit funding under</u>	24822
<u>section 3317.05 of the Revised Code.</u>	24823
(b) The superintendent of an institution with vocational	24824
education units approved under division (A) of section 3317.05 of	24825
the Revised Code shall, for the units under the superintendent's	24826
supervision, certify to the state board of education the average	24827
daily membership in those units, in the manner prescribed by the	24828
superintendent of public instruction.	24829
(2) The superintendent of each county MR/DD board that	24830
maintains special education classes under section 3317.20 of the	24831
Revised Code or units approved pursuant to section 3317.05 of the	24832
Revised Code shall do both of the following:	24833
(a) Certify to the state board, in the manner prescribed by	24834
the board, the average daily membership in classes under section	24835
3317.20 of the Revised Code for each school district that has	24836
placed children in the classes;	24837
(b) Certify to the state board, in the manner prescribed by	24838
the board, the number of all handicapped preschool children	24839
enrolled as of the first day of December in classes eligible for	24840
approval under division (B) of section 3317.05 of the Revised	24841
Code, and the number of those classes.	24842
(3)(a) If on the first school day of April the number of	24843

classes or units maintained for handicapped preschool children by 24844
the county MR/DD board that are eligible for approval under 24845
division (B) of section 3317.05 of the Revised Code is greater 24846
than the number of units approved for the year under that 24847
division, the superintendent shall make the certification required 24848
by this section for that day. 24849

(b) If the department determines that additional classes or 24850
units can be approved for the fiscal year within any limitations 24851
set forth in the acts appropriating moneys for the funding of the 24852
classes and units described in division (G)(3)(a) of this section, 24853
the department shall approve and fund additional units for the 24854
fiscal year on the basis of such average daily membership. For 24855
each unit so approved, the department shall pay an amount computed 24856
in the manner prescribed in sections 3317.052 and 3317.053 of the 24857
Revised Code. 24858

(H) Except as provided in division (I) of this section, when 24859
any city, local, or exempted village school district provides 24860
instruction for a nonresident pupil whose attendance is 24861
unauthorized attendance as defined in section 3327.06 of the 24862
Revised Code, that pupil's membership shall not be included in 24863
that district's membership figure used in the calculation of that 24864
district's formula ADM or included in the determination of any 24865
unit approved for the district under section 3317.05 of the 24866
Revised Code. The reporting official shall report separately the 24867
average daily membership of all pupils whose attendance in the 24868
district is unauthorized attendance, and the membership of each 24869
such pupil shall be credited to the school district in which the 24870
pupil is entitled to attend school under division (B) of section 24871
3313.64 or section 3313.65 of the Revised Code as determined by 24872
the department of education. 24873

(I)(1) A city, local, exempted village, or joint vocational 24874
school district admitting a scholarship student of a pilot project 24875

district pursuant to division (C) of section 3313.976 of the
Revised Code may count such student in its average daily
membership.

(2) In any year for which funds are appropriated for pilot
project scholarship programs, a school district implementing a
state-sponsored pilot project scholarship program that year
pursuant to sections 3313.974 to 3313.979 of the Revised Code may
count in average daily membership:

(a) All children residing in the district and utilizing a
scholarship to attend kindergarten in any alternative school, as
defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the
preceding year who are utilizing a scholarship to attend any such
alternative school.

(J) The superintendent of each cooperative education school
district shall certify to the superintendent of public
instruction, in a manner prescribed by the state board of
education, the applicable average daily memberships for all
students in the cooperative education district, also indicating
the city, local, or exempted village district where each pupil is
entitled to attend school under section 3313.64 or 3313.65 of the
Revised Code.

Sec. 3317.034. (A) The superintendent of each city, local,
exempted village, and joint vocational school district shall
notify the department of education once any student included in
the district's formula ADM has been absent from the student's
assigned school without legitimate excuse for twenty-one
consecutive days the school is open for instruction or, if the
school operates under an alternative attendance schedule adopted
under section 3313.481 of the Revised Code, for one hundred five

consecutive hours the school is open for instruction. 24906

(B) The department shall subtract from a school district's formula ADM each student reported under division (A) of this section and shall recalculate the district's payments under this chapter using the adjusted formula ADM. 24907
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(C) If the department determines that a school district has failed to report a student as required under division (A) of this section, the department shall subtract that student from the district's formula ADM and shall subtract the equivalent of one additional student for each student the district fails to report and shall recalculate the district's payments under this chapter using the adjusted formula ADM. 24911
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Sec. 3317.035. The auditor of state annually shall conduct audits of the information certified under section 3317.03 of the Revised Code by a number of school districts determined by the auditor of state and selected at random. 24918
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Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board. 24922
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(B) For the purpose of calculating payments under sections 24936
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24937
department shall determine, based on information certified under 24938
section 3317.03 of the Revised Code, the following by the last day 24939
of January of each year for each educational service center, for 24940
each school district, including each cooperative education school 24941
district, for each institution eligible for payment under section 24942
3323.091 of the Revised Code, and for each county MR/DD board: the 24943
number of classes operated by the school district, service center, 24944
institution, or county MR/DD board for handicapped preschool 24945
children, or fraction thereof, including in the case of a district 24946
or service center that is a funding agent, classes taught by a 24947
licensed teacher employed by that district or service center under 24948
section 3313.841 of the Revised Code, approved annually by the 24949
department on the basis of standards and rules adopted by the 24950
state board. 24951

(C) For the purpose of calculating payments under sections 24952
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 24953
department shall determine, based on information certified under 24954
section 3317.03 of the Revised Code, the following by the last day 24955
of January of each year for each school district, including each 24956
cooperative education school district, for each institution 24957
eligible for payment under section 3323.091 of the Revised Code, 24958
and for each county MR/DD board: the number of preschool 24959
handicapped related services units for child study, occupational, 24960
physical, or speech and hearing therapy, special education 24961
supervisors, and special education coordinators approved annually 24962
by the department on the basis of standards and rules adopted by 24963
the state board. 24964

~~(D) For the purpose of calculating payments under sections 24965
3317.052 and 3317.053 of the Revised Code, the department shall 24966
determine, based on information certified under section 3317.03 of 24967~~

~~the Revised Code, the following by the last day of January of each~~ 24968
~~year for each institution eligible for payment under section~~ 24969
~~3323.091 of the Revised Code:~~ 24970

~~(1) The number of classes operated by an institution for~~ 24971
~~handicapped children other than handicapped preschool children, or~~ 24972
~~fraction thereof, approved annually by the department on the basis~~ 24973
~~of standards and rules adopted by the state board;~~ 24974

~~(2) The number of related services units for children other~~ 24975
~~than handicapped preschool children for child study, occupational,~~ 24976
~~physical, or speech and hearing therapy, special education~~ 24977
~~supervisors, and special education coordinators approved annually~~ 24978
~~by the department on the basis of standards and rules adopted by~~ 24979
~~the state board.~~ 24980

~~(E) All of the arithmetical calculations made under this~~ 24981
~~section shall be carried to the second decimal place. The total~~ 24982
~~number of units for school districts, service centers, and~~ 24983
~~institutions approved annually under this section shall not exceed~~ 24984
~~the number of units included in the estimate of cost for these~~ 24985
~~units and appropriations made for them by the general assembly.~~ 24986

~~In the case of units described in division (D)(1) of this~~ 24987
~~section operated by institutions eligible for payment under~~ 24988
~~section 3323.091 of the Revised Code, the department shall approve~~ 24989
~~only units for persons who are under age twenty two on the first~~ 24990
~~day of the academic year, but not less than six years of age on~~ 24991
~~the thirtieth day of September of that year, except that such a~~ 24992
~~unit may include one or more children who are under six years of~~ 24993
~~age on the thirtieth day of September if such children have been~~ 24994
~~admitted to the unit pursuant to rules of the state board. In the~~ 24995
~~case of handicapped preschool units described in division (B) of~~ 24996
~~this section, the department shall approve only preschool units~~ 24997
~~for children who are under age six but not less than age three on~~ 24998
~~the first thirtieth day of ~~December~~ September of the academic~~ 24999

, or on the first day of August of the academic year if the school 25000
district in which the child is enrolled has adopted a resolution 25001
under division (A)(3) of section 3321.01 of the Revised Code, 25002
except that such a unit may include one or more children who are 25003
under age three or are age six or over on the ~~first day of~~ 25004
~~December~~ applicable date, as reported under division (B)(2) or 25005
(G)(2)(b) of section 3317.03 of the Revised Code, if such children 25006
have been admitted to the unit pursuant to rules of the state 25007
board. The number of units for county MR/DD boards and 25008
institutions eligible for payment under section 3323.091 of the 25009
Revised Code approved under this section shall not exceed the 25010
number that can be funded with appropriations made for such 25011
purposes by the general assembly. 25012

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) 25013
of this section unless a plan has been submitted and approved 25014
under Chapter 3323. of the Revised Code. 25015

~~(F)~~(E) The department shall approve units or fractions 25016
thereof for gifted children on the basis of standards and rules 25017
adopted by the state board. 25018

Sec. 3317.052. As used in this section, "institution" means 25019
an institution operated by a department specified in division (A) 25020
of section 3323.091 of the Revised Code. 25021

(A)(1) The department of education shall pay each school 25022
district, educational service center, institution eligible for 25023
payment under section 3323.091 of the Revised Code, or county 25024
MR/DD board an amount for the total of all classroom units for 25025
handicapped preschool children approved under division (B) of 25026
section 3317.05 of the Revised Code. For each unit, the amount 25027
shall be the sum of the minimum salary for the teacher of the 25028
unit, calculated on the basis of the teacher's training level and 25029
years of experience pursuant to the salary schedule prescribed in 25030

the version of section 3317.13 of the Revised Code in effect prior 25031
to ~~the effective date of this amendment July 1, 2001~~, plus fifteen 25032
per cent of that minimum salary amount, and eight thousand 25033
twenty-three dollars. 25034

(2) The department shall pay each school district, 25035
educational service center, institution eligible for payment under 25036
section 3323.091 of the Revised Code, or county MR/DD board an 25037
amount for the total of all related services units for handicapped 25038
preschool children approved under division (C) of section 3317.05 25039
of the Revised Code. For each such unit, the amount shall be the 25040
sum of the minimum salary for the teacher of the unit calculated 25041
on the basis of the teacher's training level and years of 25042
experience pursuant to the salary schedule prescribed in the 25043
version of section 3317.13 of the Revised Code in effect prior to 25044
~~the effective date of this amendment July 1, 2001~~, fifteen per 25045
cent of that minimum salary amount, and two thousand one hundred 25046
thirty-two dollars. 25047

(B) If a school district, educational service center, or 25048
county MR/DD board has had additional handicapped preschool units 25049
approved for the year under division (F)(2) or (G)(3) of section 25050
3317.03 of the Revised Code, the district, educational service 25051
center, or board shall receive an additional amount during the 25052
last half of the fiscal year. For each district, center, or board, 25053
the additional amount for each unit shall equal fifty per cent of 25054
the amounts computed for the unit in the manner prescribed by 25055
division (A) of this section and division (C) of section 3317.053 25056
of the Revised Code. 25057

~~(C)(1) The department shall pay each institution eligible for 25058
payment under section 3323.091 of the Revised Code or county MR/DD 25059
board an amount for the total of all special education units 25060
approved under division (D)(1) of section 3317.05 of the Revised 25061
Code. The amount for each unit shall be the sum of the minimum 25062~~

~~salary for the teacher of the unit, calculated on the basis of the 25063
teacher's training level and years of experience pursuant to the 25064
salary schedule prescribed in the version of section 3317.13 of 25065
the Revised Code in effect prior to the effective date of this 25066
amendment, plus fifteen per cent of that minimum salary amount, 25067
and eight thousand twenty three dollars. 25068~~

~~(2) The department shall pay each institution eligible for 25069
payment under section 3323.091 of the Revised Code an amount for 25070
the total of all related services units approved under division 25071
(D)(2) of section 3317.05 of the Revised Code. The amount for each 25072
unit shall be the sum of the minimum salary for the teacher of the 25073
unit, calculated on the basis of the teacher's training level and 25074
years of experience pursuant to the salary schedule prescribed in 25075
the version of section 3317.13 of the Revised Code in effect prior 25076
to the effective date of this amendment, plus fifteen per cent of 25077
that minimum salary amount, and two thousand one hundred 25078
thirty two dollars. 25079~~

~~(D) The department shall pay each institution approved for 25080
vocational education units under division (A) of section 3317.05 25081
of the Revised Code an amount for the total of all the units 25082
approved under that division. The amount for each unit shall be 25083
the sum of the minimum salary for the teacher of the unit, 25084
calculated on the basis of the teacher's training level and years 25085
of experience pursuant to the salary schedule prescribed in the 25086
version of section 3317.13 of the Revised Code in effect prior to 25087
the effective date of this amendment July 1, 2001, plus fifteen 25088
per cent of that minimum salary amount, and nine thousand five 25089
hundred ten dollars. 25090~~

Sec. 3317.053. (A) As used in this section: 25091

(1) "State share percentage" has the same meaning as in 25092
section 3317.022 of the Revised Code. 25093

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT	
Division (B) of section 3317.05		25097
of the Revised Code	\$8,334	25098
Division (C) of that section	\$3,234	25099
Division (F) (E) of that section	\$5,550	25100

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT	
Division (B) of section 3317.05		25105
of the Revised Code	\$7,799	25106
Division (C) of that section	\$2,966	25107
Division (F) (E) of that section	\$5,251	25108

(B) In the case of each unit described in division (B), (C), or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in division (P) of section 3317.024 and sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

(1) An amount equal to 50% of the average unit amount for the unit;

(2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing

a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,227.

(2) In the case of each unit described in division (B) ~~or~~ ~~(D)(1)~~ of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,799.

(3) In the case of each unit described in division (C) ~~or~~ ~~(D)(2)~~ of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$2,966.

(4) In the case of each unit described in division ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the amounts specified in division (P) of section 3317.024 of the Revised Code, shall pay a supplemental unit allowance of \$5,251.

Sec. 3317.06. Moneys paid to school districts under division

(L) of section 3317.024 of the Revised Code shall be used for the 25155
following independent and fully severable purposes: 25156

(A) To purchase such secular textbooks or electronic 25157
textbooks as have been approved by the superintendent of public 25158
instruction for use in public schools in the state and to loan 25159
such textbooks or electronic textbooks to pupils attending 25160
nonpublic schools within the district or to their parents and to 25161
hire clerical personnel to administer such lending program. Such 25162
loans shall be based upon individual requests submitted by such 25163
nonpublic school pupils or parents. Such requests shall be 25164
submitted to the school district in which the nonpublic school is 25165
located. Such individual requests for the loan of textbooks or 25166
electronic textbooks shall, for administrative convenience, be 25167
submitted by the nonpublic school pupil or the pupil's parent to 25168
the nonpublic school, which shall prepare and submit collective 25169
summaries of the individual requests to the school district. As 25170
used in this section: 25171

(1) "Textbook" means any book or book substitute that a pupil 25172
uses as a consumable or nonconsumable text, text substitute, or 25173
text supplement in a particular class or program in the school the 25174
pupil regularly attends. 25175

(2) "Electronic textbook" means computer software, 25176
interactive videodisc, magnetic media, CD-ROM, computer 25177
courseware, local and remote computer assisted instruction, 25178
on-line service, electronic medium, or other means of conveying 25179
information to the student or otherwise contributing to the 25180
learning process through electronic means. 25181

(B) To provide speech and hearing diagnostic services to 25182
pupils attending nonpublic schools within the district. Such 25183
service shall be provided in the nonpublic school attended by the 25184
pupil receiving the service. 25185

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

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(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

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(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

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(F) To provide guidance and counseling services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

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(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school

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is located. 25217

(H) To supply for use by pupils attending nonpublic schools 25218
within the district such standardized tests and scoring services 25219
as are in use in the public schools of the state; 25220

(I) To provide programs for children who attend nonpublic 25221
schools within the district and are handicapped children as 25222
defined in division (A) of section 3323.01 of the Revised Code or 25223
gifted children. Such programs shall be provided in the public 25224
school, in nonpublic schools, in public centers, or in mobile 25225
units located on or off of the nonpublic premises. If such 25226
programs are provided in the public school or in public centers, 25227
transportation to and from such facilities shall be provided by 25228
the school district in which the nonpublic school is located. 25229

(J) To hire clerical personnel to assist in the 25230
administration of programs pursuant to divisions (B), (C), (D), 25231
(E), (F), (G), and (I) of this section and to hire supervisory 25232
personnel to supervise the providing of services and textbooks 25233
pursuant to this section. 25234

(K) To purchase or lease any secular, neutral, and 25235
nonideological computer software (including site-licensing), 25236
prerecorded video laserdiscs, digital video on demand (DVD), 25237
compact discs, and video cassette cartridges, wide area 25238
connectivity and related technology as it relates to internet 25239
access, mathematics or science equipment and materials, 25240
instructional materials, and school library materials that are in 25241
general use in the public schools of the state and loan such items 25242
to pupils attending nonpublic schools within the district or to 25243
their parents, and to hire clerical personnel to administer the 25244
lending program. Only such items that are incapable of diversion 25245
to religious use and that are susceptible of loan to individual 25246
pupils and are furnished for the use of individual pupils shall be 25247

purchased and loaned under this division. As used in this section, 25248
"instructional materials" means prepared learning materials that 25249
are secular, neutral, and nonideological in character and are of 25250
benefit to the instruction of school children, and may include 25251
educational resources and services developed by the agency 25252
designated by the governor to assume the functions of the Ohio 25253
schoolnet commission. 25254

(L) To purchase or lease instructional equipment, including 25255
computer hardware and related equipment in general use in the 25256
public schools of the state, for use by pupils attending nonpublic 25257
schools within the district and to loan such items to pupils 25258
attending nonpublic schools within the district or to their 25259
parents, and to hire clerical personnel to administer the lending 25260
program. 25261

(M) To purchase mobile units to be used for the provision of 25262
services pursuant to divisions (E), (F), (G), and (I) of this 25263
section and to pay for necessary repairs and operating costs 25264
associated with these units. 25265

Clerical and supervisory personnel hired pursuant to division 25266
(J) of this section shall perform their services in the public 25267
schools, in nonpublic schools, public centers, or mobile units 25268
where the services are provided to the nonpublic school pupil, 25269
except that such personnel may accompany pupils to and from the 25270
service sites when necessary to ensure the safety of the children 25271
receiving the services. 25272

All services provided pursuant to this section may be 25273
provided under contract with educational service centers, the 25274
department of health, city or general health districts, or private 25275
agencies whose personnel are properly licensed by an appropriate 25276
state board or agency. 25277

Transportation of pupils provided pursuant to divisions (E), 25278

(F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division (L) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division (L) of section 3317.024 of the Revised Code. 25279
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No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district. 25287
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Materials, equipment, computer hardware or software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers. 25291
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No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity. 25297
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As used in this section, "parent" includes a person standing in loco parentis to a child. 25301
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Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division (L) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board. 25303
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The allocation of payments for materials, equipment, 25310
textbooks, electronic textbooks, health services, and remedial 25311
services to city, local, and exempted village school districts 25312
shall be on the basis of the state board of education's estimated 25313
annual average daily membership in nonpublic elementary and high 25314
schools located in the district. 25315

Payments made to city, local, and exempted village school 25316
districts under this section shall be equal to specific 25317
appropriations made for the purpose. All interest earned by a 25318
school district on such payments shall be used by the district for 25319
the same purposes and in the same manner as the payments may be 25320
used. 25321

The department of education shall adopt guidelines and 25322
procedures under which such programs and services shall be 25323
provided, under which districts shall be reimbursed for 25324
administrative costs incurred in providing such programs and 25325
services, and under which any unexpended balance of the amounts 25326
appropriated by the general assembly to implement this section may 25327
be transferred to the auxiliary services personnel unemployment 25328
compensation fund established pursuant to section 4141.47 of the 25329
Revised Code. The department shall also adopt guidelines and 25330
procedures limiting the purchase and loan of the items described 25331
in division (K) of this section to items that are in general use 25332
in the public schools of the state, that are incapable of 25333
diversion to religious use, and that are susceptible to individual 25334
use rather than classroom use. Within thirty days after the end of 25335
each biennium, each board of education shall remit to the 25336
department all moneys paid to it under division (L) of section 25337
3317.024 of the Revised Code and any interest earned on those 25338
moneys that are not required to pay expenses incurred under this 25339
section during the biennium for which the money was appropriated 25340
and during which the interest was earned. If a board of education 25341

subsequently determines that the remittal of moneys leaves the
board with insufficient money to pay all valid expenses incurred
under this section during the biennium for which the remitted
money was appropriated, the board may apply to the department of
education for a refund of money, not to exceed the amount of the
insufficiency. If the department determines the expenses were
lawfully incurred and would have been lawful expenditures of the
refunded money, it shall certify its determination and the amount
of the refund to be made to the director of job and family
services who shall make a refund as provided in section 4141.47 of
the Revised Code.

Sec. 3317.081. (A) Tuition shall be computed in accordance
with this section if:

(1) The tuition is required by division (C)(3)(b) of section
3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this
state and tuition is required by section 3327.06 of the Revised
Code.

(B) Tuition computed in accordance with this section shall
equal the attendance district's tuition rate computed under
section 3317.08 of the Revised Code plus the amount that district
would have received for the child pursuant to sections 3317.022,
3317.023, and 3317.025 to ~~3317.0213~~ 3317.0212 of the Revised Code
during the school year had the attendance district been authorized
to count the child in its formula ADM for that school year under
section 3317.03 of the Revised Code.

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 25372
department of education. All moneys distributed shall be coded as 25373
to county, school district or educational service center, source, 25374
and other pertinent information, and at the end of each month, a 25375
report of such distribution shall be made by such division of 25376
school finance ~~to the clerk of the senate and the chief~~ 25377
~~administrative officer of the house of representatives, to the~~ 25378
~~Ohio legislative service commission to be available for~~ 25379
~~examination by any member of either house, to each school district~~ 25380
~~and educational service center, and to the governor.~~ 25381

~~On or before the first day of September in each year, a copy~~ 25382
~~of the annual statistical report required in section 3319.33 of~~ 25383
~~the Revised Code shall be filed by the state board of education~~ 25384
~~with the clerk of the senate and the chief administrative officer~~ 25385
~~of the house of representatives, the Ohio legislative service~~ 25386
~~commission, the governor, and the auditor of state. The report~~ 25387
~~shall contain an analysis for the prior fiscal year on an accrual~~ 25388
~~basis of revenue receipts from all sources and expenditures for~~ 25389
~~all purposes for each school district, including each joint~~ 25390
~~vocational and cooperative education school district, in the~~ 25391
~~state. If any board of education fails to make the report required~~ 25392
~~in section 3319.33 of the Revised Code, the superintendent of~~ 25393
~~public instruction shall be without authority to distribute funds~~ 25394
~~to that school district or educational service center pursuant to~~ 25395
~~sections 3317.022 to 3317.0212, 3317.11, 3317.16, 3317.17, or~~ 25396
~~3317.19 of the Revised Code until such time as the required~~ 25397
~~reports are filed with all specified officers, boards, or~~ 25398
~~agencies.~~ 25399

Sec. 3317.10. (A) On or before the first day of March of each 25400
year, the department of job and family services shall certify to 25401
the state board of education the unduplicated number of children 25402
ages five through seventeen residing in each school district and 25403

living in a family that, during the preceding October, had family 25404
income not exceeding the federal poverty guidelines as defined in 25405
section 5101.46 of the Revised Code and participated in one of the 25406
following: 25407

(1) Ohio works first; 25408

(2) The food stamp program; 25409

(3) The medical assistance program, including the healthy 25410
start program, established under Chapter 5111. of the Revised 25411
Code; 25412

(4) The children's health insurance program part I 25413
established under section 5101.50 of the Revised Code; 25414

(5) The disability financial assistance program established 25415
under Chapter 5115. of the Revised Code; 25416

~~(6) The disability medical assistance program established 25417
under Chapter 5115. of the Revised Code. 25418~~

The department of job and family services shall certify this 25419
information according to the school district of residence for each 25420
child. Except as provided under division (B) of this section, the 25421
number of children so certified in any year shall be used by the 25422
department of education in calculating the distribution of moneys 25423
for the ensuing fiscal year as provided in section 3317.029 of the 25424
Revised Code. 25425

(B) Upon the transfer of part of the territory of one school 25426
district to the territory of one or more other school districts, 25427
the department of education may adjust the number of children 25428
certified under division (A) of this section for any district 25429
gaining or losing territory in such a transfer in order to take 25430
into account the effect of the transfer on the number of such 25431
children who reside in the district. Within sixty days of receipt 25432
of a request for information from the department of education, the 25433

department of job and family services shall provide any 25434
information the department of education determines is necessary to 25435
make such adjustments. The department of education may use the 25436
adjusted number for any district for the applicable fiscal year, 25437
in lieu of the number certified for the district for that fiscal 25438
year under division (A) of this section, in the calculation of the 25439
distribution of moneys provided in section 3317.029 of the Revised 25440
Code. 25441

Sec. 3317.16. (A) As used in this section: 25442

(1) "State share percentage" means the percentage calculated 25443
for a joint vocational school district as follows: 25444

(a) Calculate the state base cost funding amount for the 25445
district under division (B) of this section. If the district would 25446
not receive any base cost funding for that year under that 25447
division, the district's state share percentage is zero. 25448

(b) If the district would receive base cost funding under 25449
that division, in fiscal year 2006 divide that base cost amount by 25450
an amount equal to the following: 25451

cost-of-doing-business factor X 25452

the formula amount X 25453

formula ADM 25454

(c) If the district would receive base cost funding under 25455
that division, in fiscal year 2007 and thereafter divide that 25456
amount by an amount equal to the greater of the following: 25457

(i) Cost-of-doing-business factor for fiscal year 2006 X 25458
formula amount for fiscal year 2006 X formula ADM for fiscal year 25459
2006; 25460

(ii) Formula amount for the current fiscal year X current 25461
formula ADM. 25462

The resultant number in division (A)(1)(b) or (c) of this 25463

section is the district's state share percentage. 25464

(2) The "total special education weight" for a joint 25465
vocational school district shall be calculated in the same manner 25466
as prescribed in division (B)(1) of section 3317.022 of the 25467
Revised Code. 25468

(3) The "total vocational education weight" for a joint 25469
vocational school district shall be calculated in the same manner 25470
as prescribed in division (B)(4) of section 3317.022 of the 25471
Revised Code. 25472

(4) The "total recognized valuation" of a joint vocational 25473
school district shall be determined by adding the recognized 25474
valuations of all its constituent school districts for the 25475
applicable fiscal year. 25476

(5) "Resident district" means the city, local, or exempted 25477
village school district in which a student is entitled to attend 25478
school under section 3313.64 or 3313.65 of the Revised Code. 25479

(6) "Community school" means a community school established 25480
under Chapter 3314. of the Revised Code. 25481

(B) The department of education shall compute and distribute 25482
state base cost funding to each joint vocational school district 25483
for the fiscal year in accordance with division (B) of this 25484
section. 25485

(1) In fiscal year 2006, state base cost funding for each 25486
eligible joint vocational school district shall be computed 25487
according to the following formula: 25488

(cost-of-doing-business factor X 25489
formula amount X 25490
formula ADM) - 25491
(.0005 X total recognized valuation) 25492

(2) Beginning in fiscal year 2007, state base cost funding 25493

for each joint vocational school district shall be the greater of 25494
the amount computed under division (B)(2)(a) or (b) of this 25495
section minus (0.0005 times recognized valuation). 25496

Accordingly, beginning in fiscal year 2007, the department 25497
shall compute both of the following for each joint vocational 25498
school district: 25499

(a) Cost-of-doing-business factor for fiscal year 2006 X 25500
formula amount for fiscal year 2006 X formula ADM for fiscal year 25501
2006; 25502

(b) Formula amount for the current fiscal year X current 25503
formula ADM. 25504

If the difference obtained under this division is a negative 25505
number, the district's computation shall be zero. 25506

(C)(1) The department shall compute and distribute state 25507
vocational education additional weighted costs funds to each joint 25508
vocational school district in accordance with the following 25509
formula: 25510

state share percentage X formula amount X 25511
total vocational education weight 25512

In each fiscal year, a joint vocational school district 25513
receiving funds under division (C)(1) of this section shall spend 25514
those funds only for the purposes the department designates as 25515
approved for vocational education expenses. Vocational educational 25516
expenses approved by the department shall include only expenses 25517
connected to the delivery of career-technical programming to 25518
career-technical students. The department shall require the joint 25519
vocational school district to report data annually so that the 25520
department may monitor the district's compliance with the 25521
requirements regarding the manner in which funding received under 25522
division (C)(1) of this section may be spent. 25523

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

state share percentage X .05 X
the formula amount X the sum of
categories one and two vocational
education ADM

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

state share percentage X formula amount X
total special education weight

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, ~~and~~ 2005, 2006, and 2007.

(b) For the provision of speech language pathology services

to students, including students who do not have individualized
education programs prepared for them under Chapter 3323. of the
Revised Code, and for no other purpose, the department shall pay
each joint vocational school district an amount calculated under
the following formula:

(formula ADM divided by 2000) X the personnel
allowance X state share percentage

(3) In ~~any~~ fiscal year 2006, a joint vocational school
district shall spend for purposes that the department designates
as approved for special education and related services expenses at
least the amount calculated as follows:

(cost-of-doing-business factor X formula amount
X the sum of categories one through
six special education ADM) +
(total special education weight X
formula amount)

In fiscal year 2007 and thereafter, a school district shall
spend for those purposes at least the greater of the amount
calculated under division (D)(3)(a) or (b) of this section +
(total special education weight X formula amount).

In making the calculation required under division (D)(3) of
this section, the department shall calculate for each joint
vocational school district both of the following:

(a) Cost-of-doing-business factor for fiscal year 2006 X
formula amount for fiscal year 2006 X the sum of categories one
through six special education ADM for fiscal year 2006;

(b) Formula amount for the current fiscal year X the sum of
categories one through six special education ADM for the current
fiscal year.

The purposes approved by the department for special education
expenses shall include, but shall not be limited to, compliance

with state rules governing the education of handicapped children, 25586
providing services identified in a student's individualized 25587
education program as defined in section 3323.01 of the Revised 25588
Code, provision of speech language pathology services, and the 25589
portion of the district's overall administrative and overhead 25590
costs that are attributable to the district's special education 25591
student population. 25592

The department shall require joint vocational school 25593
districts to report data annually to allow for monitoring 25594
compliance with division (D)(3) of this section. The department 25595
shall annually report to the governor and the general assembly the 25596
amount of money spent by each joint vocational school district for 25597
special education and related services. 25598

(4) In any fiscal year, a joint vocational school district 25599
shall spend for the provision of speech language pathology 25600
services not less than the sum of the amount calculated under 25601
division (D)(1) of this section for the students in the district's 25602
category one special education ADM and the amount calculated under 25603
division (D)(2) of this section. 25604

(E)(1) If a joint vocational school district's costs for a 25605
fiscal year for a student in its categories two through six 25606
special education ADM exceed the threshold catastrophic cost for 25607
serving the student, as specified in division (C)(3)(b) of section 25608
3317.022 of the Revised Code, the district may submit to the 25609
superintendent of public instruction documentation, as prescribed 25610
by the superintendent, of all of its costs for that student. Upon 25611
submission of documentation for a student of the type and in the 25612
manner prescribed, the department shall pay to the district an 25613
amount equal to the sum of the following: 25614

(a) One-half of the district's costs for the student in 25615
excess of the threshold catastrophic cost; 25616

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

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

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

$$\begin{aligned} & (1 - \text{state share percentage}) \times \\ & \text{Total special education weight} \times \\ & \text{the formula amount} \end{aligned}$$

(2) For each handicapped student receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The product of the formula amount times the cost of doing business factor;	25648 25649
(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;	25650 25651
(c) Any funds paid under division (E) of this section for the student;	25652 25653
(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.	25654 25655 25656 25657
(3) The board of education of the joint vocational school district shall <u>may</u> report the excess costs calculated under division (G)(2) of this section to the department of education.	25658 25659 25660
(4) <u>The If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the</u> department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:	25661 25662 25663 25664 25665 25666 25667
(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.	25668 25669 25670 25671
(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.	25672 25673 25674
(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised	25675 25676 25677

Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the department shall pay the district an additional amount equal to the following:

(1) In any fiscal year prior to fiscal year 2007, the difference between those two amounts;

(2) In fiscal year 2007, the difference between those two amounts X 0.50.

Sec. 3317.20. This section does not apply to handicapped preschool children.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.

(B) Except as provided in division (C) of this section, the department shall annually pay each county MR/DD board ~~an amount calculated under the following formula~~ for each handicapped child, other than a handicapped preschool child, for whom the county MR/DD board provides special education and related services the amount calculated under division (B)(1) or (2) of this section.

(1) In fiscal year 2006, the amount for each handicapped child shall be calculated according to the following formula: 25707
(formula amount X the cost-of-doing-business factor for the child's school district) + 25708
(state share percentage X formula amount X the applicable weight) 25709
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(2) In fiscal year 2007 and thereafter, the amount for each handicapped child shall be the greater of the amount calculated under division (B)(2)(a) or (b) of this section. 25713
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In fiscal year 2007 and thereafter, the department shall calculate both of the following for each county MR/DD board: 25716
25717

(a) (The formula amount for fiscal year 2006 X the cost-of-doing-business factor for the child's school district for fiscal year 2006) + (state share percentage for fiscal year 2006 X formula amount for fiscal year 2006 X the applicable weight); 25718
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(b) The formula amount + (state share percentage X formula amount X the applicable weight). 25722
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(C) If any school district places with a county MR/DD board more handicapped children than it had placed with a county MR/DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter, and pay to the county MR/DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998. 25724
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(D) The department shall calculate for each county MR/DD board receiving payments under divisions (B) and (C) of this section the following amounts: 25734
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(1) The amount received by the county MR/DD board for approved special education and related services units, other than preschool handicapped units, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county MR/DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

Sec. 3317.201. This section does not apply to handicapped preschool children.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (A) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (B) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (C) of

<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25767
<u>specified in that division;</u>	25768
<u>(4) The number of children reported by the institution under</u>	25769
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25770
<u>receiving services for a handicap described in division (D) of</u>	25771
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25772
<u>specified in that division;</u>	25773
<u>(5) The number of children reported by the institution under</u>	25774
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25775
<u>receiving services for a handicap described in division (E) of</u>	25776
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25777
<u>specified in that division;</u>	25778
<u>(6) The number of children reported by the institution under</u>	25779
<u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u>	25780
<u>receiving services for a handicap described in division (F) of</u>	25781
<u>section 3317.013 of the Revised Code multiplied by the multiple</u>	25782
<u>specified in that division.</u>	25783
<u>(B) The department of education annually shall pay each state</u>	25784
<u>institution required to provide special education services under</u>	25785
<u>division (A) of section 3323.091 of the Revised Code an amount</u>	25786
<u>equal to the greater of:</u>	25787
<u>(1) The formula amount times the institution's total special</u>	25788
<u>education weight;</u>	25789
<u>(2) The aggregate amount of special education and related</u>	25790
<u>services unit funding the institution received for all handicapped</u>	25791
<u>children other than handicapped preschool children in fiscal year</u>	25792
<u>2005 under sections 3317.052 and 3317.053 of the Revised Code, as</u>	25793
<u>those sections existed prior to the effective date of this</u>	25794
<u>section.</u>	25795
Sec. 3317.50. The Ohio schoolnet telecommunity education fund	25796

is hereby created in the state treasury. The fund shall consist of 25797
certain excess local exchange telephone company contributions 25798
transferred from the reserve fund of the Ohio telecommunications 25799
advisory board pursuant to an agreement between the public 25800
utilities commission of Ohio and the Ohio department of education. 25801
The fund shall be used to finance technology grants to 25802
state-chartered elementary and secondary schools. Investment 25803
earnings of the fund shall be credited to the fund. 25804

Sec. 3317.51. (A) The distance learning fund is hereby 25805
created in the state treasury. The fund shall consist of moneys 25806
paid to the agency designated by the governor to assume the 25807
functions of the Ohio SchoolNet commission by any telephone 25808
company as a part of a settlement agreement between such company 25809
and the public utilities commission in fiscal year 1995 in part to 25810
establish distance learning throughout the state. The ~~authority~~ 25811
agency shall administer the fund and expend moneys from it to 25812
finance technology grants to eligible schools chartered by the 25813
state board of education to establish distance learning in those 25814
schools. Chartered schools are eligible for funds if they are 25815
within the service area of the telephone company. Investment 25816
earnings of the fund shall be credited to the fund. 25817

(B) For purposes of this section, "distance learning" means 25818
the creation of a learning environment involving a school setting 25819
and at least one other location outside of the school which allows 25820
for information available at one site to be accessed at the other 25821
through the use of such educational applications as one-way or 25822
two-way transmission of data, voice, and video, singularly or in 25823
appropriate combinations. 25824

Sec. 3318.011. For purposes of providing assistance under 25825
sections 3318.01 to 3318.20 of the Revised Code, the department of 25826
education shall annually do all of the following: 25827

(A) Calculate the adjusted valuation per pupil of each city,	25828
local, and exempted village school district according to the	25829
following formula:	25830
The district's valuation per pupil -	25831
[\$30,000 X (1 - the district's income factor)].	25832
For purposes of this calculation:	25833
(1) "Valuation per pupil" for a district means its average	25834
taxable value, divided by its <u>adjusted</u> formula ADM reported under,	25835
<u>as defined in</u> section 3317.03 <u>3317.02</u> of the Revised Code, for the	25836
previous fiscal year.	25837
(2) "Average taxable value" means the average of the amounts	25838
certified for a district in the second, third, and fourth	25839
preceding fiscal years under divisions (A)(1) and (2) of section	25840
3317.021 of the Revised Code.	25841
(3) "Income factor" has the same meaning as in section	25842
3317.02 of the Revised Code.	25843
(B) Calculate for each district the three-year average of the	25844
adjusted valuations per pupil calculated for the district for the	25845
current and two preceding fiscal years;	25846
(C) Rank all such districts in order of adjusted valuation	25847
per pupil from the district with the lowest three-year average	25848
adjusted valuation per pupil to the district with the highest	25849
three-year average adjusted valuation per pupil;	25850
(D) Divide such ranking into percentiles with the first	25851
percentile containing the one per cent of school districts having	25852
the lowest three-year average adjusted valuations per pupil and	25853
the one-hundredth percentile containing the one per cent of school	25854
districts having the highest three-year average adjusted	25855
valuations per pupil;	25856
(E) Determine the school districts that have three-year	25857

average adjusted valuations per pupil that are greater than the 25858
median three-year average adjusted valuation per pupil for all 25859
school districts in the state; 25860

(F) On or before the first day of September, certify the 25861
information described in divisions (A) to (E) of this section to 25862
the Ohio school facilities commission. 25863

Sec. 3318.111. (A) As used in this section: 25864

(1) "Valuation" of a school district means the sum of the 25865
amounts described in divisions (A)(1) and (2) of section 3317.021 25866
of the Revised Code as most recently certified for the district 25867
before the annual computation is made under division (B) of this 25868
section. 25869

(2) "One-half-mill yield" of a school district means the 25870
amount of taxes that would be charged and payable against the 25871
district's valuation from a tax of one-half mill per dollar of 25872
that valuation. 25873

(3) "One-half-mill yield per pupil" of a school district 25874
means the district's one-half-mill yield divided by the district's 25875
formula ADM as most recently reported under section 3317.03 of the 25876
Revised Code before the annual computation is made under division 25877
(B) of this section. 25878

(4) "Statewide average yield per pupil" means the amount of 25879
taxes that would be charged and payable from a tax levied on the 25880
valuation of all school districts at the rate of one-half mill per 25881
dollar of that valuation divided by the total of the formula ADMs 25882
of all school districts as most recently reported under section 25883
3317.03 of the Revised Code before the annual computation is made 25884
under division (C) of this section. 25885

(5) "Maintenance levy requirement" means the tax required to 25886
be levied pursuant to division (C)(2)(a) of section 3318.08 and 25887

division (B) of section 3318.05 of the Revised Code or the 25888
application of proceeds of another levy to paying the costs of 25889
maintaining classroom facilities pursuant to division (A)(2) of 25890
section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, 25891
or division (D)(2) of section 3318.36 of the Revised Code, or a 25892
combination thereof. 25893

(6) "Project agreement" means an agreement between a school 25894
district and the Ohio school facilities commission under section 25895
3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 25896

(B) On or before July 1, 2006, the department of education 25897
shall compute the statewide average yield per pupil and the 25898
one-half-mill yield per pupil of each school district, and provide 25899
them to the Ohio school facilities commission. On or before the 25900
first day of July each year beginning in 2007, the department of 25901
education shall compute the statewide average yield per pupil and 25902
the one-half-mill yield per pupil of each school district that has 25903
already entered into a project agreement, and provide the results 25904
of those computations to the commission. 25905

(C)(1) At the time the Ohio school facilities commission 25906
enters into a project agreement with a school district, the 25907
commission shall compute the difference between the district's 25908
one-half-mill yield per pupil and the statewide average yield per 25909
pupil as most recently provided to the commission under division 25910
(B) of this section. If the school district's one-half-mill yield 25911
per pupil is less than the average statewide yield per pupil, the 25912
commission shall multiply the difference between those amounts by 25913
the formula ADM of the district as most recently reported to the 25914
department of education under division (A) of section 3317.03 of 25915
the Revised Code. The commission shall certify the resulting 25916
product to the department of education, along with the date on 25917
which the maintenance levy requirement terminates as provided in 25918
the project agreement between the school district board and the 25919

commission. 25920

(2) In the case of a school district that entered into a project agreement after July 1, 1997, but before July 1, 2006, the commission shall make the computation described in division (C)(1) of this section on the basis of the district's one-half-mill yield per pupil and the statewide average yield per pupil computed as of September 1, 2006. 25921
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(3) The amount computed for a school district under division (C)(1) or (2) of this section shall not change for the period during which payments are made to the district under division (D) of this section. 25927
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(4) A computation need not be made under division (C)(1) or (2) of this section for a school district that certified a resolution to the commission under division (D)(3) of section 3318.36 of the Revised Code until the district becomes eligible for state assistance as provided in that division. 25931
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(D) In the fourth quarter of each fiscal year, for each school district for which a computation has been made under division (C) of this section, the department of education shall pay the amount computed to each such school district. Payments shall be made to a school district each year until and including the tax year in which the district's maintenance levy requirement terminates. Payments shall be paid from the half-mill equalization fund, subject to appropriation by the general assembly. 25936
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(E) Payments made to a school district under this section shall be credited to the district's classroom facilities maintenance fund and shall be used only for the purpose of maintaining facilities constructed or renovated under the project agreement. 25944
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(F) There is hereby created in the state treasury the half-mill equalization fund. The fund shall receive transfers 25949
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pursuant to section 5727.85 of the Revised Code. The fund shall be 25951
used first to make annual payments under division (D) of this 25952
section. If a balance remains in the fund after such payments are 25953
made in full for a year, the Ohio school facilities commission may 25954
request the controlling board to transfer a reasonable amount from 25955
such remaining balance to the public school building fund created 25956
under section 3318.15 of the Revised Code for the purposes of this 25957
chapter. 25958

All investment earnings arising from investment of money in 25959
the half-mill equalization fund shall be credited to the fund. 25960

Sec. 3318.33. (A) There is hereby created in the state 25961
treasury the Ohio school facilities commission fund, which shall 25962
consist of transfers of moneys authorized by the general assembly 25963
and revenues received by the Ohio school facilities commission 25964
under section 3318.31 of the Revised Code. Investment earnings on 25965
moneys in the fund shall be credited to the fund. Moneys in the 25966
fund may be used by the commission to pay personnel and other 25967
administrative expenses, to pay the cost of conducting evaluations 25968
of classroom facilities, to pay the cost of preparing building 25969
design specifications, to pay the cost of providing project 25970
management services, and for other purposes determined by the 25971
commission to be necessary to fulfill its duties under ~~Chapter~~ 25972
~~3318. of the Revised Code~~ this chapter. 25973

(B) The director of budget and management may transfer to the 25974
Ohio school facilities commission fund the investment earnings on 25975
the public school building fund, created in section 3318.15 of the 25976
Revised Code, the investment earnings on the education facilities 25977
trust fund created in section 183.26 of the Revised Code, or both. 25978
The director of budget and management may transfer to the Ohio 25979
school facilities commission fund the investment earnings on the 25980
school building program assistance fund, created under section 25981

3318.25 of the Revised Code, in excess of the amounts needed to 25982
meet estimated federal arbitrage rebate requirements. 25983

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state 25984
treasury the ~~vocational~~ career-technical school building 25985
assistance fund. Money in the fund shall be used solely to provide 25986
interest-free loans to school districts, including joint 25987
vocational school districts, under sections ~~3317.22~~ 3318.48 and 25988
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 25989
construction of new vocational classroom facilities, the 25990
renovation of existing vocational classroom facilities, or the 25991
purchase of vocational education equipment or facilities. Moneys 25992
in the fund shall consist of transfers made to the fund, any 25993
interest earned by the fund, and repayments of loans made under 25994
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 25995
Investment earnings of the fund shall be credited to the fund. 25996

Sec. ~~3317.22~~ 3318.48. The ~~state board of education~~ Ohio 25997
school facilities commission shall adopt rules in accordance with 25998
Chapter 119. of the Revised Code under which, in any fiscal year 25999
that funds are appropriated from the ~~vocational~~ career-technical 26000
school building assistance fund for such purpose, the ~~state board~~ 26001
commission may make interest-free loans to school districts. The 26002
rules shall include all of the following: 26003

(A) Application procedures, including the date by which 26004
applications shall be made; 26005

(B) Eligibility criteria, which shall include at least the 26006
following provisions: 26007

(1) A requirement that an applicant district demonstrate 26008
financial need for the loan. Indicators of need may include, but 26009
need not be limited to, levels of assessed valuation, enrollment 26010
levels and enrollment changes, ability of the district to maintain 26011

minimum educational standards, and demonstrated good faith efforts 26012
by the district to secure funds from sources other than the state. 26013

(2) A requirement that an applicant district demonstrate the 26014
ability to repay the loan within the maximum period permitted by 26015
division (D) of this section; 26016

(3) A requirement that an applicant district is not eligible 26017
for a loan, other than a loan for the purchase of any vocational 26018
education equipment that is not an approved project cost under 26019
this chapter, if the district, on the date of application for the 26020
loan, has at any time received any state assistance under sections 26021
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 26022
3318.40 to 3318.45 of the Revised Code or is reasonably expected 26023
to receive state assistance under any of those sections within 26024
three fiscal years; 26025

(4) A requirement that an applicant district agree to comply 26026
with all applicable design specifications and policies of the 26027
commission established pursuant to this chapter in the 26028
construction, renovation, or purchase of facilities or equipment 26029
paid for with the loan, unless such specifications or policies are 26030
waived by the commission. 26031

(C) Loan approval procedures and criteria, including criteria 26032
for prioritizing eligible applications. Criteria for such 26033
prioritization shall include: 26034

(1) Preference for applicant districts that demonstrate 26035
commitment and innovative approaches to the implementation of the 26036
department of education's vocational education modernization plan 26037
pursuant to section 3313.901 of the Revised Code; 26038

(2) Preference for applicant districts that have entered into 26039
or are in the process of entering into cooperative agreements with 26040
technical colleges or other institutions of higher education 26041
either to coordinate secondary vocational education and 26042

post-secondary technical education programs, or to share 26043
facilities and equipment. 26044

(D) Provisions governing the repayment of loans, including a 26045
provision that loans for construction, acquisition, or renovation 26046
of facilities shall be repaid within a maximum of fifteen years 26047
and loans for vocational education equipment shall be repaid 26048
within a maximum of five years; 26049

(E) A requirement that no loan shall be applied to the local 26050
resources a district expends as a condition of participation in a 26051
program established under section 3318.36 or 3318.46 of the 26052
Revised Code. 26053

Sec. ~~3317.23~~ 3318.49. ~~The state board of education~~ Ohio 26054
school facilities commission shall enter into a loan agreement 26055
with each school district it approves for a loan under section 26056
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 26057
the amount of the loan, the purposes for which it is to be used, 26058
the duration of the loan, and the repayment schedule. Every such 26059
agreement shall contain a provision ~~authorizing~~ directing the 26060
state board of education, upon the request of the executive 26061
director of the commission, to deduct from payments due to the 26062
district under Chapter 3317. of the Revised Code or from any other 26063
funds appropriated to the district by the general assembly, the 26064
amount of any scheduled loan payment due but not paid by the 26065
district and, within ten days, to transfer that amount to the 26066
commission. 26067

A copy of each loan agreement shall be furnished to the 26068
controlling board. No money shall be released from the ~~vocational~~ 26069
career-technical school building assistance fund without the 26070
approval of the controlling board. 26071

Sec. 3319.081. Except as otherwise provided in division (G) 26072

of this section, in all school districts wherein the provisions of 26073
Chapter 124. of the Revised Code do not apply, the following 26074
employment contract system shall control for employees whose 26075
contracts of employment are not otherwise provided by law: 26076

(A) Newly hired regular nonteaching school employees, 26077
including regular hourly rate and per diem employees, shall enter 26078
into written contracts for their employment which shall be for a 26079
period of not more than one year. If such employees are rehired, 26080
their subsequent contract shall be for a period of two years. 26081

(B) After the termination of the two-year contract provided 26082
in division (A) of this section, if the contract of a nonteaching 26083
employee is renewed, the employee shall be continued in 26084
employment, and the salary provided in the contract may be 26085
increased but not reduced unless such reduction is a part of a 26086
uniform plan affecting the nonteaching employees of the entire 26087
district. 26088

(C) The contracts as provided for in this section may be 26089
terminated by a majority vote of the board of education. ~~Such~~ 26090
Except as provided in sections 3319.0810 and 3319.172 of the 26091
Revised Code, the contracts may be terminated only for violation 26092
of written rules and regulations as set forth by the board of 26093
education or for incompetency, inefficiency, dishonesty, 26094
drunkenness, immoral conduct, insubordination, discourteous 26095
treatment of the public, neglect of duty, or any other acts of 26096
misfeasance, malfeasance, or nonfeasance. In addition to the right 26097
of the board of education to terminate the contract of an 26098
employee, the board may suspend an employee for a definite period 26099
of time or demote the employee for the reasons set forth in this 26100
division. The action of the board of education terminating the 26101
contract of an employee or suspending or demoting ~~him~~ the employee 26102
shall be served upon the employee by certified mail. Within ten 26103
days following the receipt of such notice by the employee, the 26104

employee may file an appeal, in writing, with the court of common 26105
pleas of the county in which such school board is situated. After 26106
hearing the appeal the common pleas court may affirm, disaffirm, 26107
or modify the action of the school board. 26108

A violation of division (A)(7) of section 2907.03 of the 26109
Revised Code is grounds for termination of employment of a 26110
nonteaching employee under this division. 26111

(D) All employees who have been employed by a school district 26112
where the provisions of Chapter 124. of the Revised Code do not 26113
apply, for a period of at least three years on November 24, 1967, 26114
shall hold continuing contracts of employment pursuant to this 26115
section. 26116

(E) Any nonteaching school employee may terminate ~~his~~ the 26117
nonteaching school employee's contract of employment thirty days 26118
subsequent to the filing of a written notice of such termination 26119
with the treasurer of the board. 26120

(F) A person hired exclusively for the purpose of replacing a 26121
nonteaching school employee while such employee is on leave of 26122
absence granted under section 3319.13 of the Revised Code is not a 26123
regular nonteaching school employee under this section. 26124

(G) All nonteaching employees employed pursuant to this 26125
section and Chapter 124. of the Revised Code shall be paid for all 26126
time lost when the schools in which they are employed are closed 26127
owing to an epidemic or other public calamity. Nothing in this 26128
division shall be construed as requiring payment in excess of an 26129
employee's regular wage rate or salary for any time worked while 26130
the school in which ~~he~~ the employee is employed is officially 26131
closed for the reasons set forth in this division. 26132

Sec. 3319.0810. (A) The board of education of any school 26133
district wherein the provisions of Chapter 124. of the Revised 26134

Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into only if all of the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in conformance with those provisions.

(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority.

(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former

position in the event that the board reinstates that position 26167
within one year after the date the position is terminated under 26168
this section. 26169

(4) The board permits any employee whose position is 26170
terminated under this section to appeal in accordance with section 26171
119.12 of the Revised Code the board's decision to terminate the 26172
employee's position, not to hire that employee for another 26173
position pursuant to division (A)(2) of this section, or not to 26174
rehire that employee for the position if it is reinstated within 26175
one year after the position is terminated pursuant to division 26176
(A)(3) of this section. 26177

(5) The contract entered into by the board and an independent 26178
agent for the provision of transportation services contains a 26179
stipulation requiring the agent to consider hiring any employees 26180
of the school district whose positions are terminated under this 26181
section for similar positions within the agent's organization. 26182

(6) The contract entered into by the board and an independent 26183
agent for the provision of transportation services contains a 26184
stipulation requiring the agent to recognize for purposes of 26185
employee representation in collective bargaining any employee 26186
organization that represented the employees whose positions are 26187
terminated under this section in collective bargaining with the 26188
board at the time of the termination provided: 26189

(a) A majority of all employees in the bargaining unit agree 26190
to such representation; 26191

(b) Such representation is not prohibited by federal law, 26192
including any ruling of the national labor relations board; 26193

(c) The employee organization is not prohibited from 26194
representing nonpublic employees by other provisions of law or its 26195
own governing instruments. 26196

However, any employee whose position is terminated under this section shall not be compelled to be included in such bargaining unit if there is another bargaining unit within the agent's organization that is applicable to the employee. 26197
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(B) If after terminating any positions of employment under this section the board fails to comply with any condition prescribed in division (A) of this section or fails to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section, the terminations shall be void and the board shall reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. Such employees shall be compensated at a rate equal to their rate of compensation in those positions just prior to the terminations plus any increases paid since the terminations to other nonteaching employees. The employees shall also be entitled to back pay at such rate for the period from the date of the terminations to the date of the reinstatements minus any pay received by the employees during any time the board was in compliance with such conditions or during any time the board enforced those obligations. 26201
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Any employee aggrieved by the failure of the board to comply with any condition prescribed in division (A) of this section or to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section shall have the right to sue the board for reinstatement of the employee's former position as provided for in this division in the court of common pleas for the county in which the school district is located or, if the school district is located in more than one county, in the court of common pleas for the county in which the majority of the territory of the school district is located. 26217
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Sec. 3319.17. (A) As used in this section, "interdistrict" 26227

contract" means any contract or agreement entered into by an 26228
educational service center governing board and another board or 26229
other public entity pursuant to section 3313.17, 3313.841, 26230
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 26231
including any such contract or agreement for the provision of 26232
services funded under division (L) of section 3317.024 of the 26233
Revised Code or provided in any unit approved under section 26234
3317.05 of the Revised Code. 26235

(B) When, for any of the following reasons that apply to any 26236
city, exempted village, local, or joint vocational school district 26237
or any educational service center, the board decides that it will 26238
be necessary to reduce the number of teachers it employs, it may 26239
make a reasonable reduction: 26240

(1) In the case of any district or service center, return to 26241
duty of regular teachers after leaves of absence including leaves 26242
provided pursuant to division (B) of section 3314.10 of the 26243
Revised Code, suspension of schools, ~~or~~ territorial changes 26244
affecting the district or center, or financial reasons; 26245

(2) In the case of any city, exempted village, local, or 26246
joint vocational school district, decreased enrollment of pupils 26247
in the district; 26248

(3) In the case of any governing board of a service center 26249
providing any particular service directly to pupils pursuant to 26250
one or more interdistrict contracts requiring such service, 26251
reduction in the total number of pupils the governing board is 26252
required to provide with the service under all interdistrict 26253
contracts as a result of the termination or nonrenewal of one or 26254
more of these interdistrict contracts; 26255

(4) In the case of any governing board providing any 26256
particular service that it does not provide directly to pupils 26257
pursuant to one or more interdistrict contracts requiring such 26258

service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts. 26259
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(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority. 26263
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On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract. 26275
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The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board in the order of seniority of service in the district or service center if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior 26281
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to suspension of the teacher's continuing contract, to a position 26291
requiring a lesser percentage of full-time employment than the 26292
position the teacher last held while employed in the district or 26293
service center. 26294

Sec. 3319.172. The board of education of each school district 26295
wherein the provisions of Chapter 124. of the Revised Code do not 26296
apply and the governing board of each educational service center 26297
may adopt a resolution ordering reasonable reductions in the 26298
number of nonteaching employees for any of the reasons for which 26299
the board of education or governing board may make reductions in 26300
teaching employees, as set forth in division (B) of section 26301
3319.17 of the Revised Code. 26302

In making any reduction under this section, the board of 26303
education or governing board shall proceed to suspend contracts in 26304
accordance with the recommendation of the superintendent of the 26305
district or service center who shall, within each pay 26306
classification affected, give preference first to employees under 26307
continuing contracts and then to employees on the basis of 26308
seniority. On a case-by-case basis, in lieu of suspending a 26309
contract in whole, a board may suspend a contract in part, so that 26310
an individual is required to work a percentage of the time the 26311
employee otherwise is required to work under the contract and 26312
receives a commensurate percentage of the full compensation the 26313
employee otherwise would receive under the contract. 26314

Any nonteaching employee whose continuing contract is 26315
suspended under this section shall have the right of restoration 26316
to continuing service status by the board of education or 26317
governing board that suspended that contract in order of seniority 26318
of service in the district or service center, if and when a 26319
nonteaching position for which the employee is qualified becomes 26320
vacant or is created. No nonteaching employee whose continuing 26321

contract has been suspended under this section shall lose that 26322
right of restoration to continuing service status by reason of 26323
having declined recall to a position requiring fewer regularly 26324
scheduled hours of work than required by the position the employee 26325
last held while employed in the district or service center. 26326

Sec. 3319.22. (A)(1) The state board of education shall adopt 26327
rules establishing the standards and requirements for obtaining 26328
temporary, associate, provisional, and professional educator 26329
licenses of any categories, types, and levels the board elects to 26330
provide. However, no educator license shall be required for 26331
teaching children two years old or younger. 26332

(2) If the state board requires any examinations for educator 26333
licensure, the department of education shall provide the results 26334
of such examinations received by the department to the Ohio board 26335
of regents, in the manner and to the extent permitted by state and 26336
federal law. 26337

(B) Any rules the state board of education adopts, amends, or 26338
rescinds for educator licenses under this section, division (D) of 26339
section 3301.07 of the Revised Code, or any other law shall be 26340
adopted, amended, or rescinded under Chapter 119. of the Revised 26341
Code except as follows: 26342

(1) Notwithstanding division (D) of section 119.03 and 26343
division (A)(1) of section 119.04 of the Revised Code, in the case 26344
of the adoption of any rule or the amendment or rescission of any 26345
rule that necessitates institutions' offering teacher preparation 26346
programs that are approved by the state board of education under 26347
section 3319.23 of the Revised Code to revise the curriculum of 26348
those programs, the effective date shall not be as prescribed in 26349
division (D) of section 119.03 and division (A)(1) of section 26350
119.04 of the Revised Code. Instead, the effective date of such 26351
rules, or the amendment or rescission of such rules, shall be the 26352

date prescribed by section 3319.23 of the Revised Code. 26353

(2) Notwithstanding the authority to adopt, amend, or rescind 26354
emergency rules in division (F) of section 119.03 of the Revised 26355
Code, this authority shall not apply to the state board of 26356
education with regard to rules for educator licenses. 26357

(C)(1) The rules adopted under this section establishing 26358
standards requiring additional coursework for the renewal of any 26359
educator license shall require a school district and a chartered 26360
nonpublic school to establish local professional development 26361
committees. In a nonpublic school, the chief administrative 26362
officer shall establish the committees in any manner acceptable to 26363
such officer. The committees established under this division shall 26364
determine whether coursework that a district or chartered 26365
nonpublic school teacher proposes to complete meets the 26366
requirement of the rules. The department of education shall 26367
provide technical assistance and support to committees as the 26368
committees incorporate the professional development standards 26369
adopted by the state board of education pursuant to section 26370
3319.61 of the Revised Code into their review of coursework that 26371
is appropriate for license renewal. The rules shall establish a 26372
procedure by which a teacher may appeal the decision of a local 26373
professional development committee. 26374

(2) In any school district in which there is no exclusive 26375
representative established under Chapter 4117. of the Revised 26376
Code, the professional development committees shall be established 26377
as described in division (C)(2) of this section. 26378

Not later than the effective date of the rules adopted under 26379
this section, the board of education of each school district shall 26380
establish the structure for one or more local professional 26381
development committees to be operated by such school district. The 26382
committee structure so established by a district board shall 26383

remain in effect unless within thirty days prior to an anniversary 26384
of the date upon which the current committee structure was 26385
established, the board provides notice to all affected district 26386
employees that the committee structure is to be modified. 26387
Professional development committees may have a district-level or 26388
building-level scope of operations, and may be established with 26389
regard to particular grade or age levels for which an educator 26390
license is designated. 26391

Each professional development committee shall consist of at 26392
least three classroom teachers employed by the district, one 26393
principal employed by the district, and one other employee of the 26394
district appointed by the district superintendent. For committees 26395
with a building-level scope, the teacher and principal members 26396
shall be assigned to that building, and the teacher members shall 26397
be elected by majority vote of the classroom teachers assigned to 26398
that building. For committees with a district-level scope, the 26399
teacher members shall be elected by majority vote of the classroom 26400
teachers of the district, and the principal member shall be 26401
elected by a majority vote of the principals of the district, 26402
unless there are two or fewer principals employed by the district, 26403
in which case the one or two principals employed shall serve on 26404
the committee. If a committee has a particular grade or age level 26405
scope, the teacher members shall be licensed to teach such grade 26406
or age levels, and shall be elected by majority vote of the 26407
classroom teachers holding such a license and the principal shall 26408
be elected by all principals serving in buildings where any such 26409
teachers serve. The district superintendent shall appoint a 26410
replacement to fill any vacancy that occurs on a professional 26411
development committee, except in the case of vacancies among the 26412
elected classroom teacher members, which shall be filled by vote 26413
of the remaining members of the committee so selected. 26414

Terms of office on professional development committees shall 26415

be prescribed by the district board establishing the committees. 26416
The conduct of elections for members of professional development 26417
committees shall be prescribed by the district board establishing 26418
the committees. A professional development committee may include 26419
additional members, except that the majority of members on each 26420
such committee shall be classroom teachers employed by the 26421
district. Any member appointed to fill a vacancy occurring prior 26422
to the expiration date of the term for which a predecessor was 26423
appointed shall hold office as a member for the remainder of that 26424
term. 26425

The initial meeting of any professional development 26426
committee, upon election and appointment of all committee members, 26427
shall be called by a member designated by the district 26428
superintendent. At this initial meeting, the committee shall 26429
select a chairperson and such other officers the committee deems 26430
necessary, and shall adopt rules for the conduct of its meetings. 26431
Thereafter, the committee shall meet at the call of the 26432
chairperson or upon the filing of a petition with the district 26433
superintendent signed by a majority of the committee members 26434
calling for the committee to meet. 26435

(3) In the case of a school district in which an exclusive 26436
representative has been established pursuant to Chapter 4117. of 26437
the Revised Code, professional development committees shall be 26438
established in accordance with any collective bargaining agreement 26439
in effect in the district that includes provisions for such 26440
committees. 26441

If the collective bargaining agreement does not specify a 26442
different method for the selection of teacher members of the 26443
committees, the exclusive representative of the district's 26444
teachers shall select the teacher members. 26445

If the collective bargaining agreement does not specify a 26446

different structure for the committees, the board of education of 26447
the school district shall establish the structure, including the 26448
number of committees and the number of teacher and administrative 26449
members on each committee; the specific administrative members to 26450
be part of each committee; whether the scope of the committees 26451
will be district levels, building levels, or by type of grade or 26452
age levels for which educator licenses are designated; the lengths 26453
of terms for members; the manner of filling vacancies on the 26454
committees; and the frequency and time and place of meetings. 26455
However, in all cases, except as provided in division (C)(4) of 26456
this section, there shall be a majority of teacher members of any 26457
professional development committee, there shall be at least five 26458
total members of any professional development committee, and the 26459
exclusive representative shall designate replacement members in 26460
the case of vacancies among teacher members, unless the collective 26461
bargaining agreement specifies a different method of selecting 26462
such replacements. 26463

(4) Whenever an administrator's coursework plan is being 26464
discussed or voted upon, the local professional development 26465
committee shall, at the request of one of its administrative 26466
members, cause a majority of the committee to consist of 26467
administrative members by reducing the number of teacher members 26468
voting on the plan. 26469

(D)(1) The department of education, educational service 26470
centers, county boards of mental retardation and developmental 26471
disabilities, regional professional development centers, special 26472
education regional resource centers, college and university 26473
departments of education, head start programs, the agency 26474
designated by the governor to assume the functions of the Ohio 26475
SchoolNet commission, and the Ohio education computer network may 26476
establish local professional development committees to determine 26477
whether the coursework proposed by their employees who are 26478

licensed or certificated under this section or section 3319.222 of 26479
the Revised Code meet the requirements of the rules adopted under 26480
this section. They may establish local professional development 26481
committees on their own or in collaboration with a school district 26482
or other agency having authority to establish them. 26483

Local professional development committees established by 26484
county boards of mental retardation and developmental disabilities 26485
shall be structured in a manner comparable to the structures 26486
prescribed for school districts in divisions (C)(2) and (3) of 26487
this section, as shall the committees established by any other 26488
entity specified in division (D)(1) of this section that provides 26489
educational services by employing or contracting for services of 26490
classroom teachers licensed or certificated under this section or 26491
section 3319.222 of the Revised Code. All other entities specified 26492
in division (D)(1) of this section shall structure their 26493
committees in accordance with guidelines which shall be issued by 26494
the state board. 26495

(2) Any public agency that is not specified in division 26496
(D)(1) of this section but provides educational services and 26497
employs or contracts for services of classroom teachers licensed 26498
or certificated under this section or section 3319.222 of the 26499
Revised Code may establish a local professional development 26500
committee, subject to the approval of the department of education. 26501
The committee shall be structured in accordance with guidelines 26502
issued by the state board. 26503

Sec. 3319.235. (A) The standards for the preparation of 26504
teachers adopted under section 3319.23 of the Revised Code shall 26505
require any institution that provides a course of study for the 26506
training of teachers to ensure that graduates of such course of 26507
study are skilled at integrating educational technology in the 26508
instruction of children, as evidenced by the graduate having 26509

either demonstrated proficiency in such skills in a manner 26510
prescribed by the department of education or completed a course 26511
that includes training in such skills. 26512

(B) The agency designated by the governor to assume the 26513
functions of the Ohio SchoolNet commission, ~~established pursuant~~ 26514
~~to section 3301.80 of the Revised Code,~~ shall establish model 26515
professional development programs to assist teachers who completed 26516
their teacher preparation prior to the effective date of division 26517
(A) of this section to become skilled at integrating educational 26518
technology in the instruction of children. The ~~commission~~ agency 26519
shall provide technical assistance to school districts wishing to 26520
establish such programs. 26521

Sec. 3319.55. (A) A grant program is hereby established to 26522
recognize and reward teachers in public and chartered nonpublic 26523
schools who hold valid teaching certificates or licenses issued by 26524
the national board for professional teaching standards. The 26525
superintendent of public instruction shall administer this program 26526
in accordance with this section and rules which the state board of 26527
education shall adopt in accordance with Chapter 119. of the 26528
Revised Code. 26529

In each fiscal year that the general assembly appropriates 26530
funds for purposes of this section, the superintendent of public 26531
instruction shall award a grant to each person who, by the first 26532
day of April of that year and in accordance with the rules adopted 26533
under this section, submits to the superintendent evidence 26534
indicating all of the following: 26535

(1) The person holds a valid certificate or license issued by 26536
the national board for professional teaching standards; 26537

(2) The person has been employed full-time as a teacher by 26538
the board of education of a school district or by a chartered 26539
nonpublic school in this state during the current school year; 26540

(3) The date the person was accepted into the national board certification or licensure program. 26541
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An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section. No person may receive a grant after the expiration of the person's initial certification or license issued by the national board. 26543
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(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following: 26548
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(1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004; 26551
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(2) One thousand dollars for any other teacher issued a certificate or license by the national board. 26555
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However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person. 26557
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Sec. 3323.021. As used in this section, "participating county MR/DD board" means a county board of mental retardation and developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code. 26562
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(A) When a school district, educational service center, or participating county MR/DD board enters into an agreement or contract with another school district, educational service center, or participating county MR/DD board to provide educational 26567
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services to a disabled child during a school year, both of the 26571
following shall apply: 26572

(1) Beginning with fiscal year 1999, if the provider of the 26573
services intends to increase the amount it charges for some or all 26574
of those services during the next school year or if the provider 26575
intends to cease offering all or part of those services during the 26576
next school year, the provider shall notify the entity for which 26577
the services are provided of these intended changes no later than 26578
the first day of March of the current fiscal year. 26579

(2) Beginning with fiscal year 1999, if the entity for which 26580
services are provided intends to cease obtaining those services 26581
from the provider for the next school year or intends to change 26582
the type or amount of services it obtains from the provider for 26583
the next school year, the entity shall notify the service provider 26584
of these intended changes no later than the first day of March of 26585
the current fiscal year. 26586

(B) School districts, educational service centers, 26587
participating county MR/DD boards, and other applicable 26588
governmental entities shall collaborate where possible to maximize 26589
federal sources of revenue, ~~including the community alternative~~ 26590
~~funding system of the medical assistance program established under~~ 26591
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 26592
special education related services for disabled children. 26593
Annually, each school district shall report to the department of 26594
education any amounts of money the district received through such 26595
medical assistance program. 26596

(C) The state board of education, the department of mental 26597
retardation and developmental disabilities, and the department of 26598
job and family services shall develop working agreements for 26599
pursuing additional funds for services for disabled children. 26600

Sec. 3323.091. (A) The department of mental health, the 26601
department of mental retardation and developmental disabilities, 26602
the department of youth services, and the department of 26603
rehabilitation and correction shall establish and maintain special 26604
education programs for handicapped children in institutions under 26605
their jurisdiction according to standards adopted by the state 26606
board of education. ~~The~~ 26607

(B) The superintendent of each state institution required to 26608
provide services under division (A) of this section, and each 26609
county MR/DD board, providing special education for handicapped 26610
preschool children under this chapter may apply to the state 26611
department of education for unit funding, which shall be paid in 26612
accordance with sections 3317.052 and 3317.053 of the Revised 26613
Code. 26614

~~(B) On~~ The superintendent of each state institution required 26615
to provide services under division (A) of this section may apply 26616
to the department of education for special education and related 26617
services weighted funding for handicapped children other than 26618
handicapped preschool children, calculated in accordance with 26619
section 3317.201 of the Revised Code. 26620

Each county MR/DD board providing special education for 26621
handicapped children other than handicapped preschool children may 26622
apply to the department of education for base cost and special 26623
education and related services weighted funding calculated in 26624
accordance with section 3317.20 of the Revised Code. 26625

(C) In addition to the authorization to apply for state 26626
funding described in division (B) of this section, each state 26627
institution required to provide services under division (A) of 26628
this section is entitled to tuition payments calculated in the 26629
manner described in division (C) of this section. 26630

On or before the thirtieth day of June of each year, the 26631

superintendent of each institution that during the school year 26632
provided special education pursuant to this section shall prepare 26633
a statement for each handicapped child under twenty-two years of 26634
age who has received special education. The statement shall 26635
contain the child's name and the name of the child's school 26636
district of residence. Within sixty days after receipt of such 26637
statement, the department of education shall perform one of the 26638
following: 26639

(1) For any child except a handicapped preschool child 26640
described in division ~~(B)~~(C)(2) of this section, pay to the 26641
institution submitting the statement an amount equal to the 26642
tuition calculated under division (A) of section 3317.08 of the 26643
Revised Code for the period covered by the statement, and deduct 26644
the same from the amount of state funds, if any, payable under 26645
sections 3317.022 and 3317.023 of the Revised Code, to the child's 26646
school district of residence or, if the amount of such state funds 26647
is insufficient, require the child's school district of residence 26648
to pay the institution submitting the statement an amount equal to 26649
the amount determined under this division. 26650

(2) For any handicapped preschool child not included in a 26651
unit approved under division (B) of section 3317.05 of the Revised 26652
Code, perform the following: 26653

(a) Pay to the institution submitting the statement an amount 26654
equal to the tuition calculated under division (B) of section 26655
3317.08 of the Revised Code for the period covered by the 26656
statement, except that in calculating the tuition under that 26657
section the operating expenses of the institution submitting the 26658
statement under this section shall be used instead of the 26659
operating expenses of the school district of residence; 26660

(b) Deduct from the amount of state funds, if any, payable 26661
under sections 3317.022 and 3317.023 of the Revised Code to the 26662
child's school district of residence an amount equal to the amount 26663

paid under division ~~(B)~~(C)(2)(a) of this section.

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Sec. 3323.14. This section does not apply to any handicapped preschool child except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

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(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay ~~directly~~ to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the district concerned at the time the district providing such special education accepts the child for enrollment. The department of education shall certify the amount of the payments under Chapter 3317. of the Revised Code for such handicapped pupils for each school year ending on the thirtieth day of July.

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(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the

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district may report the amount calculated under this division to 26695
the department. 26696

(C) If a district providing special education for a child 26697
reports an amount for the excess cost of those services, as 26698
authorized and calculated under division (A) or (B) of this 26699
section, the department shall pay that amount of excess cost to 26700
the district providing the services and shall deduct that amount 26701
from the child's district of residence in accordance with division 26702
(N) of section 3317.023 of the Revised Code. 26703

Sec. 3323.16. No unit for deaf children shall be disapproved 26704
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 26705
Revised Code on the basis of the methods of instruction used in 26706
educational programs in the school district or institution to 26707
teach deaf children to communicate, and no preference in approving 26708
units for funding shall be given for teaching deaf children by the 26709
oral, manual, total communication, or other method of instruction. 26710

Sec. 3323.20. On July 1, 2006, and on each first day of July 26711
thereafter, the department of education shall electronically 26712
report to the general assembly the number of handicapped preschool 26713
children who received services for which the department made a 26714
payment to any provider during the previous fiscal year, 26715
disaggregated according to each category of handicap described in 26716
divisions (A) to (F) of section 3317.013 of the Revised Code, 26717
regardless of whether payment for services was based on the 26718
multiples prescribed in those divisions. 26719

Sec. 3323.30. The Ohio center for autism and low incidence is 26720
hereby established within the department of education's office for 26721
exceptional children, or any successor of that office. The center 26722
shall administer programs and coordinate services for infants, 26723
preschool and school-age children, and adults with autism and low 26724

incidence disabilities. The center's principal focus shall be 26725
programs and services for persons with autism. The center shall be 26726
under the direction of an executive director, appointed by the 26727
superintendent of public instruction in consultation with the 26728
advisory board established under section 3323.31 of the Revised 26729
Code. The department shall use state and federal funds 26730
appropriated to the department for operation of the center. 26731

As used in this section and in sections 3323.31 to 3323.33 of 26732
the Revised Code, "autism and low incidence disabilities" includes 26733
any of the following: 26734

- (A) Autism; 26735
- (B) Deafness or hearing handicap; 26736
- (C) Multihandicap; 26737
- (D) Orthopedic handicap; 26738
- (E) Other health handicap; 26739
- (F) Traumatic brain injury; 26740
- (G) Visual disability. 26741

Sec. 3323.31. The superintendent of public instruction shall 26742
establish an advisory board to assist and advise the department of 26743
education in the operation of the Ohio center for autism and low 26744
incidence. As determined by the superintendent, the advisory board 26745
shall consist of individuals who are stakeholders in the service 26746
to persons with autism and low incidence disabilities, including, 26747
but not limited to, the following: 26748

- (A) Persons with autism and low incidence disabilities; 26749
- (B) Parents and family members; 26750
- (C) Educators and other professionals; 26751

<u>(D) Higher education instructors;</u>	26752
<u>(E) Representatives of state agencies.</u>	26753
<u>The advisory board shall be organized as determined by the</u>	26754
<u>superintendent.</u>	26755
<u>Members of the advisory board shall receive no compensation</u>	26756
<u>for their services.</u>	26757
<u>Sec. 3323.32. The Ohio center for autism and low incidence</u>	26758
<u>shall do all of the following:</u>	26759
<u>(A) Collaborate and consult with state agencies that serve</u>	26760
<u>persons with autism and low incidence disabilities;</u>	26761
<u>(B) Collaborate and consult with institutions of higher</u>	26762
<u>education in development and implementation of courses for</u>	26763
<u>educators and other professionals serving persons with autism and</u>	26764
<u>low incidence disabilities;</u>	26765
<u>(C) Collaborate with parent and professional organizations;</u>	26766
<u>(D) Create and implement programs for professional</u>	26767
<u>development, technical assistance, intervention services, and</u>	26768
<u>research in the treatment of persons with autism and low incidence</u>	26769
<u>disabilities;</u>	26770
<u>(E) Create a regional network for communication and</u>	26771
<u>dissemination of information among educators and professionals</u>	26772
<u>serving persons with autism and low incidence disabilities. The</u>	26773
<u>regional network shall address educational services, evaluation,</u>	26774
<u>diagnosis, assistive technology, family support, leisure and</u>	26775
<u>recreational activities, transition, employment and adult</u>	26776
<u>services, and medical care for persons with autism and low</u>	26777
<u>incidence disabilities.</u>	26778
<u>(F) Develop a statewide clearinghouse for information about</u>	26779
<u>autism spectrum disorders and low incidence disabilities, as</u>	26780

described in section 3323.33 of the Revised Code. 26781

Sec. 3323.33. In developing a clearinghouse for information 26782
about autism spectrum disorders and low incidence disabilities, as 26783
required under section 3323.32 of the Revised Code, the Ohio 26784
center for autism and low incidence shall do all of the following: 26785

(A) Maintain a collection of resources for public 26786
distribution; 26787

(B) Monitor information on resources, trends, policies, 26788
services, and current educational interventions; 26789

(C) Respond to requests for information from parents and 26790
educators of children with autism and low incidence disabilities. 26791

Sec. 3324.10. (A) As used in this section, "grade 26792
acceleration" means the promotion of a student to a grade higher 26793
than the grade that would generally follow the one the student has 26794
completed. 26795

(B) Not later than March 31, 2006, the superintendent of 26796
public instruction shall review the grade acceleration policies of 26797
school districts throughout the state and adopt as the state's 26798
policy the policy from among that group that represents the best 26799
practices for a statewide grade acceleration policy, as determined 26800
by the superintendent. The superintendent shall provide each 26801
district with a copy of the policy upon its adoption. Any school 26802
district board of education that has not adopted a grade 26803
acceleration policy for use in its district shall comply with the 26804
statewide grade acceleration policy. 26805

(C) The statewide grade acceleration policy adopted pursuant 26806
to this section shall be effective beginning with the 2006-2007 26807
school year. 26808

Sec. 3325.10. The state school for the blind may receive and administer any federal funds relating to the education of blind or visually impaired students. The school for the blind also may accept and administer any gifts, donations, or bequests made to it for programs or services relating to the education of blind or visually impaired students.

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Sec. 3325.11. There is hereby created in the state treasury the state school for the blind student activity and work-study fund. Moneys received from donations, bequests, the school vocational program, and any other moneys designated for deposit in the fund by the superintendent of the state school for the blind shall be credited to the fund. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The school for the blind shall use money in the fund for school operating expenses, including, but not limited to, personal services, maintenance, and equipment related to student support, activities, and vocational programs, and for providing scholarships to students for further training upon graduation.

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Sec. 3325.12. There is hereby created the state school for the blind student account fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all moneys received from the parents or guardians of students attending the state school for the blind that are designated for use by the respective students in activities of their choice. The treasurer of state may invest any portion of the fund not needed for immediate use in the same manner as, and subject to laws regarding the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the superintendent of the state school for the blind

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or the superintendent's designee. All investment earnings of the 26839
fund shall be credited to the fund and allocated among the student 26840
accounts in proportion to the amount invested from each student's 26841
account. 26842

Sec. 3325.15. The state school for the deaf may receive and 26843
administer any federal funds relating to the education of deaf or 26844
hearing-impaired students. The school for the deaf also may accept 26845
and administer any gifts, donations, or bequests given to it for 26846
programs or services relating to the education of deaf or 26847
hearing-impaired students. 26848

Sec. 3325.16. There is hereby created in the state treasury 26849
the state school for the deaf educational program expenses fund. 26850
Moneys received by the school from donations, bequests, student 26851
fundraising activities, fees charged for camps and workshops, gate 26852
receipts from athletic contests, and the student work experience 26853
program operated by the school, and any other moneys designated 26854
for deposit in the fund by the superintendent of the school, shall 26855
be credited to the fund. Notwithstanding section 3325.01 of the 26856
Revised Code, the approval of the state board of education is not 26857
required to designate money for deposit into the fund. The state 26858
school for the deaf shall use moneys in the fund for educational 26859
programs, after-school activities, and expenses associated with 26860
student activities and clubs. 26861

Sec. 3325.17. There is hereby created the state school for 26862
the deaf student account fund, which shall be in the custody of 26863
the treasurer of state but shall not be part of the state 26864
treasury. The fund shall consist of all moneys received from the 26865
parents or guardians of students attending the state school for 26866
the deaf that are designated for use by the respective students in 26867

activities of their choice. The treasurer of state may invest any 26868
portion of the fund not needed for immediate use in the same 26869
manner as, and subject to laws regarding the investment of, state 26870
funds. The treasurer of state shall disburse money from the fund 26871
on order of the superintendent of the state school for the deaf or 26872
the superintendent's designee. All investment earnings of the fund 26873
shall be credited to the fund and allocated among the student 26874
accounts in proportion to the amount invested from each student's 26875
account. 26876

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 26877
and division (D) of section 3311.52 of the Revised Code, this 26878
section and sections 3327.011, 3327.012, and 3327.02 of the 26879
Revised Code do not apply to any joint vocational or cooperative 26880
education school district. 26881

In all city, local, and exempted village school districts 26882
where resident school pupils in grades kindergarten through eight 26883
live more than two miles from the school for which the state board 26884
of education prescribes minimum standards pursuant to division (D) 26885
of section 3301.07 of the Revised Code and to which they are 26886
assigned by the board of education of the district of residence or 26887
to and from the nonpublic or community school which they attend 26888
the board of education shall provide transportation for such 26889
pupils to and from such school except as provided in section 26890
3327.02 of the Revised Code. 26891

In all city, local, and exempted village school districts 26892
where pupil transportation is required under a career-technical 26893
plan approved by the state board of education under section 26894
3313.90 of the Revised Code, for any student attending a 26895
career-technical program operated by another school district, 26896
including a joint vocational school district, as prescribed under 26897

that section, the board of education of the student's district of residence shall provide transportation from the public high school operated by that district to which the student is assigned to the career-technical program.

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In all city, local, and exempted village school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

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A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the public school building to which the pupils would be assigned if attending the public school designated by the district of residence.

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Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.

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In all city, local, and exempted village school districts the board shall provide transportation for all children who are so crippled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and

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local school districts the board shall provide transportation to 26929
and from school or special education classes for educable mentally 26930
retarded children in accordance with standards adopted by the 26931
state board of education. 26932

When transportation of pupils is provided the conveyance 26933
shall be run on a time schedule that shall be adopted and put in 26934
force by the board not later than ten days after the beginning of 26935
the school term. 26936

The cost of any transportation service authorized by this 26937
section shall be paid first out of federal funds, if any, 26938
available for the purpose of pupil transportation, and secondly 26939
out of state appropriations, in accordance with regulations 26940
adopted by the state board of education. 26941

No transportation of any pupils shall be provided by any 26942
board of education to or from any school which in the selection of 26943
pupils, faculty members, or employees, practices discrimination 26944
against any person on the grounds of race, color, religion, or 26945
national origin. 26946

Sec. 3332.092. Any school subject to this chapter receiving 26947
money under section 3333.12 or 3333.122 of the Revised Code on 26948
behalf of a student who is determined by the state board of career 26949
colleges and schools to be ineligible under such section because 26950
the program in which the student is enrolled does not lead to an 26951
associate or baccalaureate degree, shall be liable to the state 26952
for the amount specified in section 3333.12 or 3333.122 of the 26953
Revised Code. The state board of career colleges and schools shall 26954
suspend the certificate of registration of a school receiving 26955
money under section 3333.12 or 3333.122 of the Revised Code for 26956
such ineligible student until such time as the money is repaid to 26957
the Ohio board of regents. 26958

Sec. 3333.04. The Ohio board of regents shall: 26959

(A) Make studies of state policy in the field of higher 26960
education and formulate a master plan for higher education for the 26961
state, considering the needs of the people, the needs of the 26962
state, and the role of individual public and private institutions 26963
within the state in fulfilling these needs; 26964

(B)(1) Report annually to the governor and the general 26965
assembly on the findings from its studies and the master plan for 26966
higher education for the state; 26967

(2) Report at least semiannually to the general assembly and 26968
the governor the enrollment numbers at each state-assisted 26969
institution of higher education. 26970

(C) Approve or disapprove the establishment of new branches 26971
or academic centers of state colleges and universities; 26972

(D) Approve or disapprove the establishment of state 26973
technical colleges or any other state institution of higher 26974
education; 26975

(E) Recommend the nature of the programs, undergraduate, 26976
graduate, professional, state-financed research, and public 26977
services which should be offered by the state colleges, 26978
universities, and other state-assisted institutions of higher 26979
education in order to utilize to the best advantage their 26980
facilities and personnel; 26981

(F) Recommend to the state colleges, universities, and other 26982
state-assisted institutions of higher education graduate or 26983
professional programs, including, but not limited to, doctor of 26984
philosophy, doctor of education, and juris doctor programs, that 26985
could be eliminated because they constitute unnecessary 26986
duplication, as shall be determined using the process developed 26987
pursuant to this section, or for other good and sufficient cause. 26988

For purposes of determining the amounts of any state instructional 26989
subsidies paid to these colleges, universities, and institutions, 26990
the board may exclude students enrolled in any program that the 26991
board has recommended for elimination pursuant to this division 26992
except that the board shall not exclude any such student who 26993
enrolled in the program prior to the date on which the board 26994
initially commences to exclude students under this division. The 26995
board of regents and these colleges, universities, and 26996
institutions shall jointly develop a process for determining which 26997
existing graduate or professional programs constitute unnecessary 26998
duplication. 26999

(G) Recommend to the state colleges, universities, and other 27000
state-assisted institutions of higher education programs which 27001
should be added to their present programs; 27002

(H) Conduct studies for the state colleges, universities, and 27003
other state-assisted institutions of higher education to assist 27004
them in making the best and most efficient use of their existing 27005
facilities and personnel; 27006

(I) Make recommendations to the governor and general assembly 27007
concerning the development of state-financed capital plans for 27008
higher education; the establishment of new state colleges, 27009
universities, and other state-assisted institutions of higher 27010
education; and the establishment of new programs at the existing 27011
state colleges, universities, and other institutions of higher 27012
education; 27013

(J) Review the appropriation requests of the public community 27014
colleges and the state colleges and universities and submit to the 27015
office of budget and management and to the chairpersons of the 27016
finance committees of the house of representatives and of the 27017
senate its recommendations in regard to the biennial higher 27018
education appropriation for the state, including appropriations 27019

for the individual state colleges and universities and public 27020
community colleges. For the purpose of determining the amounts of 27021
instructional subsidies to be paid to state-assisted colleges and 27022
universities, the board shall define "full-time equivalent 27023
student" by program per academic year. The definition may take 27024
into account the establishment of minimum enrollment levels in 27025
technical education programs below which support allowances will 27026
not be paid. Except as otherwise provided in this section, the 27027
board shall make no change in the definition of "full-time 27028
equivalent student" in effect on November 15, 1981, which would 27029
increase or decrease the number of subsidy-eligible full-time 27030
equivalent students, without first submitting a fiscal impact 27031
statement to the president of the senate, the speaker of the house 27032
of representatives, ~~the legislative budget office of the~~ 27033
legislative service commission, and the director of budget and 27034
management. The board shall work in close cooperation with the 27035
director of budget and management in this respect and in all other 27036
matters concerning the expenditures of appropriated funds by state 27037
colleges, universities, and other institutions of higher 27038
education. 27039

(K) Seek the cooperation and advice of the officers and 27040
trustees of both public and private colleges, universities, and 27041
other institutions of higher education in the state in performing 27042
its duties and making its plans, studies, and recommendations; 27043

(L) Appoint advisory committees consisting of persons 27044
associated with public or private secondary schools, members of 27045
the state board of education, or personnel of the state department 27046
of education; 27047

(M) Appoint advisory committees consisting of college and 27048
university personnel, or other persons knowledgeable in the field 27049
of higher education, or both, in order to obtain their advice and 27050
assistance in defining and suggesting solutions for the problems 27051

and needs of higher education in this state;	27052
(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;	27053 27054 27055
(O) Adopt such rules as are necessary to carry out its duties and responsibilities;	27056 27057
(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the supervision of the board that is designed to accomplish any of the following:	27058 27059 27060 27061
(1) Increased access to higher education;	27062
(2) Job training;	27063
(3) Adult literacy;	27064
(4) Research;	27065
(5) Excellence in higher education;	27066
(6) Reduction in the number of graduate programs within the same subject area.	27067 27068
In July of each odd-numbered year, the board of regents shall submit to the governor and the general assembly a report on progress made toward these goals.	27069 27070 27071
(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, <u>3333.122</u> , 3333.21 to 3333.27, and 5910.02 of the Revised Code;	27072 27073 27074 27075
(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;	27076 27077 27078 27079
(S) Adopt rules for student financial aid programs as	27080

required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 27081
3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any 27082
other administrative functions assigned to the board by those 27083
sections; 27084

(T) Administer contracts under sections 3702.74 and 3702.75 27085
of the Revised Code in accordance with rules adopted by the 27086
director of health under section 3702.79 of the Revised Code; 27087

(U) Conduct enrollment audits of state-supported institutions 27088
of higher education; 27089

(V) Appoint consortiums of college and university personnel 27090
to participate in the development and operation of statewide 27091
collaborative efforts, including the Ohio supercomputer center, 27092
the Ohio academic resources network, OhioLink, and the Ohio 27093
learning network. For each consortium, the board shall designate a 27094
college or university to serve as that consortium's fiscal agent, 27095
financial officer, and employer. Any funds appropriated to the 27096
board for consortiums shall be distributed to the fiscal agents 27097
for the operation of the consortiums. A consortium shall follow 27098
the rules of the college or university that serves as its fiscal 27099
agent. 27100

Sec. 3333.044. (A) The Ohio board of regents may contract 27101
with any consultants that are necessary for the discharge of the 27102
board's duties under this chapter. 27103

(B) The Ohio board of regents may purchase, upon the terms 27104
that the board determines to be advisable, one or more policies of 27105
insurance from insurers authorized to do business in this state 27106
that insure consultants who have contracted with the board under 27107
division (A) of this section or members of an advisory committee 27108
appointed under section 3333.04 of the Revised Code, with respect 27109
to the activities of the consultants or advisory committee members 27110

in the course of the performance of their responsibilities as 27111
consultants or advisory committee members. 27112

(C) Subject to the approval of the controlling board, the 27113
Ohio board of regents may contract with any entities for the 27114
discharge of the board's duties and responsibilities under any of 27115
the programs established pursuant to sections 3333.12, 3333.122, 27116
3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 27117
5910. of the Revised Code. The board shall not enter into a 27118
contract under this division unless the proposed contractor 27119
demonstrates that its primary purpose is to promote access to 27120
higher education by providing student financial assistance through 27121
loans, grants, or scholarships, and by providing high quality 27122
support services and information to students and their families 27123
with regard to such financial assistance. 27124

Chapter 125. of the Revised Code does not apply to contracts 27125
entered into pursuant to this section. In awarding contracts under 27126
this division, the board shall consider factors such as the cost 27127
of the administration of the contract, the experience of the 27128
contractor, and the contractor's ability to properly execute the 27129
contract. 27130

Sec. 3333.047. With regard to any state student financial aid 27131
program established in this chapter, Chapter 5910., or section 27132
5919.34 of the Revised Code, the Ohio board of regents shall 27133
conduct audits to: 27134

(A) Determine the validity of information provided by 27135
students and parents regarding eligibility for state student 27136
financial aid. If the board determines that eligibility data has 27137
been reported incorrectly or inaccurately, and where the board 27138
determines an adjustment to be appropriate, the institution of 27139
higher education shall adjust the financial aid awarded to the 27140
student. 27141

(B) Ensure that institutions of higher education are in compliance with the board's rules governing state student financial aid programs. An institution that fails to comply with the board's rules in the administration of any state student financial aid program shall be fully liable to reimburse the board for the unauthorized use of student financial aid funds.

Sec. 3333.12. (A) As used in this section: 27148

(1) "Eligible student" means an undergraduate student who is: 27149

(a) An Ohio resident enrolled in an undergraduate program before July 1, 2006; 27150
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(b) Enrolled in either of the following: 27152

(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. 27153
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(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. 27168
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(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.

(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 the board. Gross income may be verified to the board by the institution in which the student is enrolled using the federal financial aid eligibility verification process or by other means satisfactory to the board.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a

term of imprisonment. Applications for such grants shall be made 27203
as prescribed by the board, and such applications may be made in 27204
conjunction with and upon the basis of information provided in 27205
conjunction with student assistance programs funded by agencies of 27206
the United States government or from financial resources of the 27207
institution of higher education. The institution shall certify 27208
that the student applicant meets the requirements set forth in 27209
divisions (A)(1)(b) and (c) of this section. Instructional grants 27210
shall be provided to an eligible student only as long as the 27211
student is making appropriate progress toward a nursing diploma or 27212
an associate or bachelor's degree. No student shall be eligible to 27213
receive a grant for more than ten semesters, fifteen quarters, or 27214
the equivalent of five academic years. A grant made to an eligible 27215
student on the basis of less than full-time enrollment shall be 27216
based on the number of credit hours for which the student is 27217
enrolled and shall be computed in accordance with a formula 27218
adopted by the board. No student shall receive more than one grant 27219
on the basis of less than full-time enrollment. 27220

An instructional grant shall not exceed the total 27221
instructional and general charges of the institution. 27222

(C) The tables in this division prescribe the maximum grant 27223
amounts covering two semesters, three quarters, or a comparable 27224
portion of one academic year. Grant amounts for additional terms 27225
in the same academic year shall be determined under division (D) 27226
of this section. 27227

For a full-time student who is a dependent and enrolled in a 27228
nonprofit educational institution that is not a state-assisted 27229
institution and that has a certificate of authorization issued 27230
pursuant to Chapter 1713. of the Revised Code, the amount of the 27231
instructional grant for two semesters, three quarters, or a 27232
comparable portion of the academic year shall be determined in 27233
accordance with the following table: 27234

	Private Institution					27235
	Table of Grants					27236
	Maximum Grant \$5,466					27237
Gross Income	Number of Dependents					27238
	1	2	3	4	5 or more	27239
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	27240
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	27241
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	27242
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	27243
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	27244
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	27245
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	27246
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	27247
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	27248
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	27249
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	27250
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	27251
\$34,001 - \$35,000	444	888	984	1,080	1,344	27252
\$35,001 - \$36,000	--	444	888	984	1,080	27253
\$36,001 - \$37,000	--	--	444	888	984	27254
\$37,001 - \$38,000	--	--	--	444	888	27255
\$38,001 - \$39,000	--	--	--	--	444	27256

For a full-time student who is financially independent and 27257
enrolled in a nonprofit educational institution that is not a 27258
state-assisted institution and that has a certificate of 27259
authorization issued pursuant to Chapter 1713. of the Revised 27260
Code, the amount of the instructional grant for two semesters, 27261
three quarters, or a comparable portion of the academic year shall 27262
be determined in accordance with the following table: 27263

	Private Institution					27264
	Table of Grants					27265
	Maximum Grant \$5,466					27266

Gross Income	Number of Dependents						27267
	0	1	2	3	4	5 or more	27268
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	27269
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	27270
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	27271
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	27272
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	27273
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	27274
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	27275
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	27276
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	27277
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	27278
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	27279
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	27280
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	27281
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	27282
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	27283
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	27284
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	27285
\$30,301 - \$35,300	--	492	540	672	816	1,314	27286

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	27295
Table of Grants	27296
Maximum Grant \$4,632	27297
Gross Income	27298
Number of Dependents	27298

	1	2	3	4	5 or more	27299
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27300
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632	27301
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632	27302
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632	27303
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632	27304
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182	27305
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684	27306
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222	27307
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790	27308
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292	27309
\$32,001 - \$33,000	852	906	1,134	1,416	1,854	27310
\$33,001 - \$34,000	750	852	906	1,134	1,416	27311
\$34,001 - \$35,000	372	750	852	906	1,134	27312
\$35,001 - \$36,000	--	372	750	852	906	27313
\$36,001 - \$37,000	--	--	372	750	852	27314
\$37,001 - \$38,000	--	--	--	372	750	27315
\$38,001 - \$39,000	--	--	--	--	372	27316

For a full-time student who is financially independent and
enrolled in an educational institution that holds a certificate of
registration from the state board of career colleges and schools
or a private institution exempt from regulation under Chapter
3332. of the Revised Code as prescribed in section 3333.046 of the
Revised Code, the amount of the instructional grant for two
semesters, three quarters, or a comparable portion of the academic
year shall be determined in accordance with the following table:

Career Institution		27325					
Table of Grants		27326					
Maximum Grant \$4,632		27327					
Gross Income	Number of Dependents	27328					
	0	1	2	3	4	5 or more	27329

\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	27330
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	27331
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632	27332
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632	27333
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632	27334
\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632	27335
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410	27336
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158	27337
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930	27338
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714	27339
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462	27340
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246	27341
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024	27342
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886	27343
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544	27344
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268	27345
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986	27346
\$30,301 - \$35,300	--	426	456	570	708	1,116	27347

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							27353
Table of Grants							27354
Maximum Grant \$2,190							27355
Gross Income	Number of Dependents						27356
	1	2	3	4	5 or more		27357
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190		27358
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190		27359
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190		27360
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190		27361

\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	27362
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	27363
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	27364
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	27365
\$28,001 - \$31,000	522	648	864	1,080	1,320	27366
\$31,001 - \$32,000	420	522	648	864	1,080	27367
\$32,001 - \$33,000	384	420	522	648	864	27368
\$33,001 - \$34,000	354	384	420	522	648	27369
\$34,001 - \$35,000	174	354	384	420	522	27370
\$35,001 - \$36,000	--	174	354	384	420	27371
\$36,001 - \$37,000	--	--	174	354	384	27372
\$37,001 - \$38,000	--	--	--	174	354	27373
\$38,001 - \$39,000	--	--	--	--	174	27374

For a full-time student who is financially independent and 27375
enrolled in a state-assisted educational institution, the amount 27376
of the instructional grant for two semesters, three quarters, or a 27377
comparable portion of the academic year shall be determined in 27378
accordance with the following table: 27379

Public Institution 27380

Table of Grants 27381

Maximum Grant \$2,190 27382

Gross Income Number of Dependents 27383

	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	27384
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	27385
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190	27386
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190	27387
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190	27388
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190	27389
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082	27390
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968	27391
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866	27392

\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758	27394
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638	27395
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530	27396
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422	27397
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356	27398
\$19,301 - \$22,300	--	540	750	948	1,062	1,200	27399
\$22,301 - \$25,300	--	432	540	750	948	1,062	27400
\$25,301 - \$30,300	--	324	432	540	750	948	27401
\$30,301 - \$35,300	--	192	210	264	324	522	27402

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the

following: 27426

(a) Any student enrolled in an institution that under the 27427
federal law appeals its loss of eligibility for federal financial 27428
aid and the United States secretary of education determines its 27429
cohort default rate after recalculation is lower than the rate 27430
specified in division (F)(1) of this section or the secretary 27431
determines due to mitigating circumstances the institution may 27432
continue to participate in federal financial aid programs. The 27433
board shall adopt rules requiring institutions to provide 27434
information regarding an appeal to the board. 27435

(b) Any student who has previously received a grant under 27436
this section who meets all other requirements of this section. 27437

(3) The board shall adopt rules for the notification of all 27438
institutions whose students will be ineligible to participate in 27439
the grant program pursuant to division (F)(1) of this section. 27440

(4) A student's attendance at an institution whose students 27441
lose eligibility for grants under division (F)(1) of this section 27442
shall not affect that student's eligibility to receive a grant 27443
when enrolled in another institution. 27444

(G) Institutions of higher education that enroll students 27445
receiving instructional grants under this section shall report to 27446
the board all students who have received instructional grants but 27447
are no longer eligible for all or part of such grants and shall 27448
refund any moneys due the state within thirty days after the 27449
beginning of the quarter or term immediately following the quarter 27450
or term in which the student was no longer eligible to receive all 27451
or part of the student's grant. There shall be an interest charge 27452
of one per cent per month on all moneys due and payable after such 27453
thirty-day period. The board shall immediately notify the office 27454
of budget and management and the legislative service commission of 27455
all refunds so received. 27456

Sec. 3333.121. There is hereby established in the state 27457
treasury the ~~instructional grant~~ state need-based financial aid 27458
reconciliation fund, which shall consist of refunds of 27459
instructional grant payments made pursuant to section 3333.12 of 27460
the Revised Code and refunds of state need-based financial aid 27461
payments made pursuant to section 3333.122 of the Revised Code. 27462
Revenues credited to the fund shall be used by the Ohio board of 27463
regents to pay to higher education institutions any outstanding 27464
obligations from the prior year owed for the Ohio instructional 27465
grant program and the Ohio college opportunity grant program that 27466
are identified through the annual reconciliation and financial 27467
audit. Any amount in the fund that is in excess of the amount 27468
certified to the director of budget and management by the board of 27469
regents as necessary to reconcile prior year payments under the 27470
program shall be transferred to the general revenue fund. 27471

Sec. 3333.122. (A) As used in this section: 27472

(1) "Eligible student" means a student who is: 27473

(a) An Ohio resident who first enrolls in an undergraduate 27474
program after July 1, 2006; 27475

(b) Enrolled in either of the following: 27476

(i) An accredited institution of higher education in this 27477
state that meets the requirements of Title VI of the Civil Rights 27478
Act of 1964 and is state-assisted, is nonprofit and has a 27479
certificate of authorization from the Ohio board of regents 27480
pursuant to Chapter 1713. of the Revised Code, has a certificate 27481
of registration from the state board of career colleges and 27482
schools and program authorization to award an associate or 27483
bachelor's degree, or is a private institution exempt from 27484
regulation under Chapter 3332. of the Revised Code as prescribed 27485
in section 3333.046 of the Revised Code. Students who attend an 27486

institution that holds a certificate of registration shall be 27487
enrolled in a program leading to an associate or bachelor's degree 27488
for which associate or bachelor's degree program the institution 27489
has program authorization issued under section 3332.05 of the 27490
Revised Code. 27491

(ii) A technical education program of at least two years 27492
duration sponsored by a private institution of higher education in 27493
this state that meets the requirements of Title VI of the Civil 27494
Rights Act of 1964. 27495

(2) A student who participated in either the early college 27496
high school program administered by the department of education or 27497
in the post-secondary enrollment options program pursuant to 27498
Chapter 3365. of the Revised Code before July 1, 2006, shall not 27499
be excluded from eligibility for a need based grant under this 27500
section. 27501

(3) "Resident," "expected family contribution" or "EFC," 27502
"full-time student," "three-quarters-time student," "half-time 27503
student," "one-quarter-time student," and "accredited" shall be 27504
defined by rules adopted by the board. 27505

(B) The Ohio board of regents shall establish and administer 27506
a needs-based financial aid program based on the United States 27507
department of education's method of determining financial need and 27508
may adopt rules to carry out this section. The program shall be 27509
known as the Ohio college opportunity grant program. The general 27510
assembly shall support the needs-based financial aid program by 27511
such sums and in such manner as it may provide, but the board may 27512
also receive funds from other sources to support the program. If 27513
the amounts available for support of the program are inadequate to 27514
provide grants to all eligible students, preference in the payment 27515
of grants shall be given in terms of expected family contribution, 27516
beginning with the lowest expected family contribution category 27517

and proceeding upward by category to the highest expected family contribution category. 27518
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A needs-based financial aid grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no needs-based financial aid grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(a) and (b) of this section. Needs-based financial aid grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment. 27520
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A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution. 27542
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(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section. 27544
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<u>As used in the tables in division (C) of this section:</u>					27549
<u>(1) "Private institution" means an institution that is</u>					27550
<u>nonprofit and has a certificate of authorization from the Ohio</u>					27551
<u>board of regents pursuant to Chapter 1713. of the Revised Code.</u>					27552
<u>(2) "Career college" means either an institution that holds a</u>					27553
<u>certificate of registration from the state board of career</u>					27554
<u>colleges and schools or a private institution exempt from</u>					27555
<u>regulation under Chapter 3332. of the Revised Code as prescribed</u>					27556
<u>in section 3333.046 of the Revised Code.</u>					27557
<u>Full-time students shall be eligible to receive awards</u>					27558
<u>according to the following table:</u>					27559
<u>Full-Time Enrollment</u>					27560
<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	27561
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
		<u>award</u>	<u>award</u>	<u>award</u>	
		<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$300</u>	<u>\$600</u>	<u>\$480</u>	27562
<u>2,001</u>	<u>2,100</u>	<u>402</u>	<u>798</u>	<u>642</u>	27563
<u>1,901</u>	<u>2,000</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27564
<u>1,801</u>	<u>1,900</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27565
<u>1,701</u>	<u>1,800</u>	<u>702</u>	<u>1,398</u>	<u>1,122</u>	27566
<u>1,601</u>	<u>1,700</u>	<u>798</u>	<u>1,602</u>	<u>1,278</u>	27567
<u>1,501</u>	<u>1,600</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27568
<u>1,401</u>	<u>1,500</u>	<u>1,002</u>	<u>1,998</u>	<u>1,602</u>	27569
<u>1,301</u>	<u>1,400</u>	<u>1,098</u>	<u>2,202</u>	<u>1,758</u>	27570
<u>1,201</u>	<u>1,300</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27571
<u>1,101</u>	<u>1,200</u>	<u>1,302</u>	<u>2,598</u>	<u>2,082</u>	27572
<u>1,001</u>	<u>1,100</u>	<u>1,398</u>	<u>2,802</u>	<u>2,238</u>	27573

<u>901</u>	<u>1,000</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27574
<u>801</u>	<u>900</u>	<u>1,602</u>	<u>3,198</u>	<u>2,562</u>	27575
<u>701</u>	<u>800</u>	<u>1,698</u>	<u>3,402</u>	<u>2,718</u>	27576
<u>601</u>	<u>700</u>	<u>1,800</u>	<u>3,600</u>	<u>2,280</u>	27577
<u>501</u>	<u>600</u>	<u>1,902</u>	<u>3,798</u>	<u>3,042</u>	27578
<u>401</u>	<u>500</u>	<u>1,998</u>	<u>4,002</u>	<u>3,198</u>	27579
<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>	27580
<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>	27581
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>	27582
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>	27583
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>	27584

Three-quarters-time students shall be eligible to receive awards according to the following table: 27585
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Three-Quarters-Time Enrollment 27587

<u>If the EFC is equal to or greater than:</u>	<u>And the EFC is no more than:</u>	<u>If the student attends a public institution, the annual award shall be:</u>	<u>If the student attends a private institution, the annual award shall be:</u>	<u>If the student attends a career college, the annual award shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$228</u>	<u>\$450</u>	<u>\$360</u>	27588 27589
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>	27590
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>	27591
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>	27592
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27593
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27594
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>	27595
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27596
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>	27597
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27598
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>	27599

<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27600
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>	27601
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27602
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>	27603
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>	27604
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>	27605
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	27606
<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>	27607
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>	27608
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>	27609
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>	27610
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>	27611

Half-time students shall be eligible to receive awards 27612

according to the following table: 27613

Half-Time Enrollment 27614

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
		<u>award</u>	<u>award</u>	<u>award</u>	
		<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$150</u>	<u>\$300</u>	<u>\$240</u>	27616
<u>2,001</u>	<u>2,100</u>	<u>204</u>	<u>402</u>	<u>324</u>	27617
<u>1,901</u>	<u>2,000</u>	<u>252</u>	<u>504</u>	<u>402</u>	27618
<u>1,801</u>	<u>1,900</u>	<u>300</u>	<u>600</u>	<u>480</u>	27619
<u>1,701</u>	<u>1,800</u>	<u>354</u>	<u>702</u>	<u>564</u>	27620
<u>1,601</u>	<u>1,700</u>	<u>402</u>	<u>804</u>	<u>642</u>	27621
<u>1,501</u>	<u>1,600</u>	<u>450</u>	<u>900</u>	<u>720</u>	27622
<u>1,401</u>	<u>1,500</u>	<u>504</u>	<u>1,002</u>	<u>804</u>	27623
<u>1,301</u>	<u>1,400</u>	<u>552</u>	<u>1,104</u>	<u>882</u>	27624
<u>1,201</u>	<u>1,300</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27625

<u>1,101</u>	<u>1,200</u>	<u>654</u>	<u>1,302</u>	<u>1,044</u>	27626
<u>1,001</u>	<u>1,100</u>	<u>702</u>	<u>1,404</u>	<u>1,122</u>	27627
<u>901</u>	<u>1,000</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	27628
<u>801</u>	<u>900</u>	<u>804</u>	<u>1,602</u>	<u>1,284</u>	27629
<u>701</u>	<u>800</u>	<u>852</u>	<u>1,704</u>	<u>1,362</u>	27630
<u>601</u>	<u>700</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	27631
<u>501</u>	<u>600</u>	<u>954</u>	<u>1,902</u>	<u>1,524</u>	27632
<u>401</u>	<u>500</u>	<u>1,002</u>	<u>2,004</u>	<u>1,602</u>	27633
<u>301</u>	<u>400</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	27634
<u>201</u>	<u>300</u>	<u>1,104</u>	<u>2,202</u>	<u>1,764</u>	27635
<u>101</u>	<u>200</u>	<u>1,152</u>	<u>2,304</u>	<u>1,842</u>	27636
<u>1</u>	<u>100</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	27637
<u>0</u>	<u>0</u>	<u>1,248</u>	<u>2,496</u>	<u>1,998</u>	27638

One-quarter-time students shall be eligible to receive awards 27639

according to the following table: 27640

One-Quarter-Time Enrollment 27641

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
		<u>award</u>	<u>award</u>	<u>award</u>	
		<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$78</u>	<u>\$150</u>	<u>\$120</u>	27643
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u>	27644
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u>	27645
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u>	27646
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u>	27647
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u>	27648
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u>	27649
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u>	27650
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u>	27651

<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u>	27652
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u>	27653
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u>	27654
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u>	27655
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u>	27656
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u>	27657
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u>	27658
<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u>	27659
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	27660
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	27661
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u>	27662
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u>	27663
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	27664
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u>	27665

(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. 27666
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(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. 27675
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(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 27680
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the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 27684
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 27685
preceding the fiscal year, equal to or greater than thirty per 27686
cent for each of the preceding two fiscal years. 27687

(2) Division (F)(1) of this section does not apply to the 27688
following: 27689

(a) Any student enrolled in an institution that under the 27690
federal law appeals its loss of eligibility for federal financial 27691
aid and the United States secretary of education determines its 27692
cohort default rate after recalculation is lower than the rate 27693
specified in division (F)(1) of this section or the secretary 27694
determines due to mitigating circumstances the institution may 27695
continue to participate in federal financial aid programs. The 27696
board shall adopt rules requiring institutions to provide 27697
information regarding an appeal to the board. 27698

(b) Any student who has previously received a grant under 27699
this section who meets all other requirements of this section. 27700

(3) The board shall adopt rules for the notification of all 27701
institutions whose students will be ineligible to participate in 27702
the grant program pursuant to division (F)(1) of this section. 27703

(4) A student's attendance at an institution whose students 27704
lose eligibility for grants under division (F)(1) of this section 27705
shall not affect that student's eligibility to receive a grant 27706
when enrolled in another institution. 27707

(G) Institutions of higher education that enroll students 27708
receiving needs-based financial aid grants under this section 27709
shall report to the board all students who have received 27710
needs-based financial aid grants but are no longer eligible for 27711
all or part of such grants and shall refund any moneys due the 27712
state within thirty days after the beginning of the quarter or 27713
term immediately following the quarter or term in which the 27714

student was no longer eligible to receive all or part of the 27715
student's grant. There shall be an interest charge of one per cent 27716
per month on all moneys due and payable after such thirty-day 27717
period. The board shall immediately notify the office of budget 27718
and management and the legislative service commission of all 27719
refunds so received. 27720

Sec. 3333.162. (A) As used in this section, "state 27721
institution of higher education" means an institution of higher 27722
education as defined in section 3345.12 of the Revised Code. 27723

(B) By April 15, 2007, the Ohio board of regents, in 27724
consultation with the department of education, public adult and 27725
secondary career-technical education institutions, and 27726
institutions of higher education, shall establish criteria, 27727
policies, and procedures that enable students to transfer 27728
technical courses completed through an adult career-technical 27729
education institution or a public secondary career-technical 27730
institution to a state institution of higher education that offers 27731
such programs without unnecessary duplication or institutional 27732
barriers. The courses to which the criteria, policies, and 27733
procedures apply shall be those that adhere to recognized industry 27734
standards and equivalent coursework common to the secondary career 27735
pathway and adult career-technical education system and regionally 27736
accredited state institutions of higher education. Where 27737
applicable, the policies and procedures shall build upon the 27738
articulation agreement and transfer initiative course equivalency 27739
system required by section 3333.16 of the Revised Code. 27740

(C) By April 15, 2006, the board shall report to the general 27741
assembly on its progress in establishing these policies and 27742
procedures. 27743

Sec. 3333.27. As used in this section: 27744

(A) "Eligible institution" means a nonprofit Ohio institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code and meets the requirements of Title VI of the Civil Rights Act of 1964.

(B) "Resident" and "full-time student" have the meanings established for purposes of this section by rule of the Ohio board of regents.

The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program.

The board may make a grant to any resident of this state who is enrolled as a full-time student in a bachelor's degree program at an eligible institution and maintains an academic record that meets or exceeds the standard established pursuant to this section by rule of the board, except that no grant shall be made to any individual who was enrolled as a student in an institution of higher education on or before July 1, 1984, or is serving a term of imprisonment. The grant shall not exceed the lesser of the total instructional and general charges of the institution in which the student is enrolled, or an amount equal to one-fourth of the total of any state instructional subsidy amount distributed by the board in the second fiscal year of the preceding biennium for all full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education divided by the sum of the actual number of full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education reported to the board for such year by the institutions to which the subsidy was distributed.

The board shall prescribe the form and manner of application for grants including the manner of certification by eligible institutions that each applicant from such institution is enrolled

in a bachelor's degree program as a full-time student and has an
academic record that meets or exceeds the standard established by
the board.

A grant awarded to an eligible student shall be paid to the
institution in which the student is enrolled, and the institution
shall reduce the student's instructional and general charges by
the amount of the grant. Each grant awarded shall be prorated and
paid in equal installments at the time of enrollment for each term
of the academic year for which the grant is awarded. No student
shall be eligible to receive a grant for more than ten semesters,
fifteen quarters, or the equivalent of five academic years.

The receipt of an Ohio student choice grant shall not affect
a student's eligibility for assistance, or the amount of such
assistance, granted under section 3315.33, 3333.12, 3333.122,
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised
Code. If a student receives assistance under one or more of such
sections, the student choice grant made to the student shall not
exceed the difference between the amount of assistance received
under such sections and the total instructional and general
charges of the institution in which the student is enrolled.

The general assembly shall support the student choice grant
program by such sums and in such manner as it may provide, but the
board may also receive funds from other sources to support the
program.

No grant shall be made to any student enrolled in a course of
study leading to a degree in theology, religion, or other field of
preparation for a religious profession unless the course of study
leads to an accredited bachelor of arts or bachelor of science
degree.

Institutions of higher education that enroll students
receiving grants under this section shall report to the board the

name of each student who has received such a grant but who is no
longer eligible for all or part of such grant and shall refund all
moneys due to the state within thirty days after the beginning of
the term immediately following the term in which the student was
no longer eligible to receive all or part of the grant. There
shall be an interest charge of one per cent per month on all
moneys due and payable after such thirty-day period. The board
shall immediately notify the office of budget and management and
~~the legislative budget office of~~ the legislative service
commission of all refunds received.

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Sec. 3333.28. (A) The Ohio board of regents shall establish
the nurse education assistance program, the purpose of which shall
be to make loans to students enrolled in prelicensure nurse
education programs at institutions approved by the board of
nursing under section 4723.06 of the Revised Code and
postlicensure nurse education programs approved by the board of
regents under section 3333.04 of the Revised Code or offered by an
institution holding a certificate of authorization issued by the
board of regents under Chapter 1713. of the Revised Code. The
board of nursing shall assist the board of regents in
administering the program.

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(B) There is hereby created in the state treasury the nurse
education assistance fund, which shall consist of all money
transferred to it pursuant to section 4743.05 of the Revised Code.
The fund shall be used by the board of regents for loans made
under division (A) of this section and for expenses of
administering the loan program.

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(C) The board of regents shall adopt rules in accordance with
Chapter 119. of the Revised Code establishing:

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(1) Eligibility criteria for receipt of a loan;

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(2) Loan application procedures;	27837
(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;	27838 27839
(4) The total amount of loans that can be made each year;	27840
(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;	27841 27842
(6) Interest and principal repayment schedules;	27843
(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;	27844 27845 27846
(8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;	27847 27848 27849
(9) Any other matters incidental to the operation of the program.	27850 27851
(D) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by the board of regents by rule adopted under division (C)(7) of this section.	27852 27853 27854 27855 27856
(E) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, <u>3333.122</u> , 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the board of regents may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.	27857 27858 27859 27860 27861 27862 27863
Sec. 3333.36. <u>The Provided that sufficient unencumbered and unexpended funds are available from general revenue fund</u>	27864 27865

appropriations made to the Ohio board of regents, the chancellor
of the Ohio board of regents ~~may~~ shall allocate up to seventy
thousand dollars in each fiscal year to make payments to the
Columbus program in intergovernmental issues, an Ohio internship
program at Kent state university, for scholarships of up to two
thousand dollars for each student enrolled in the program. The
chancellor may utilize any general revenue funds appropriated to
the board of regents that the chancellor determines to be
available for purposes of this section.

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Sec. 3333.38. (A) As used in this section:

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(1) "Institution of higher education" includes all of the
following:

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(a) A state institution of higher education, as defined in
section 3345.011 of the Revised Code;

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(b) A nonprofit institution issued a certificate of
authorization by the Ohio board of regents under Chapter 1713. of
the Revised Code;

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(c) A private institution exempt from regulation under
Chapter 3332. of the Revised Code, as prescribed in section
3333.046 of the Revised Code;

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(d) An institution of higher education with a certificate of
registration from the state board of career colleges and schools
under Chapter 3332. of the Revised Code.

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(2) "Student financial assistance supported by state funds"
includes assistance granted under sections 3315.33, 3333.12,
3333.122, 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372,
5910.03, 5910.032, and 5919.34 of the Revised Code and any other
post-secondary student financial assistance supported by state
funds.

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(B) An individual who is convicted of, pleads guilty to, or

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is adjudicated a delinquent child for one of the following 27896
violations shall be ineligible to receive any student financial 27897
assistance supported by state funds at an institution of higher 27898
education for two calendar years from the time the individual 27899
applies for assistance of that nature: 27900

(1) A violation of section 2917.02 or 2917.03 of the Revised 27901
Code; 27902

(2) A violation of section 2917.04 of the Revised Code that 27903
is a misdemeanor of the fourth degree; 27904

(3) A violation of section 2917.13 of the Revised Code that 27905
is a misdemeanor of the fourth or first degree and occurs within 27906
the proximate area where four or more others are acting in a 27907
course of conduct in violation of section 2917.11 of the Revised 27908
Code. 27909

(C) If an individual is convicted of, pleads guilty to, or is 27910
adjudicated a delinquent child for committing a violation of 27911
section 2917.02 or 2917.03 of the Revised Code, and if the 27912
individual is enrolled in a state-supported institution of higher 27913
education, the institution in which the individual is enrolled 27914
shall immediately dismiss the individual. No state-supported 27915
institution of higher education shall admit an individual of that 27916
nature for one academic year after the individual applies for 27917
admission to a state-supported institution of higher education. 27918
This division does not limit or affect the ability of a 27919
state-supported institution of higher education to suspend or 27920
otherwise discipline its students. 27921

Sec. 3334.01. As used in this chapter: 27922

(A) "Aggregate original principal amount" means the aggregate 27923
of the initial offering prices to the public of college savings 27924
bonds, exclusive of accrued interest, if any. "Aggregate original 27925

principal amount" does not mean the aggregate accreted amount	27926
payable at maturity or redemption of such bonds.	27927
(B) "Beneficiary" means:	27928
(1) An individual designated by the purchaser under a tuition	27929
payment contract or through a scholarship program as the	27930
individual on whose behalf tuition credits <u>units</u> purchased under	27931
the contract or awarded through the scholarship program will be	27932
applied toward the payment of undergraduate, graduate, or	27933
professional tuition; or	27934
(2) An individual designated by the contributor under a	27935
variable college savings program contract as the individual whose	27936
tuition and other higher education expenses will be paid from a	27937
variable college savings program account.	27938
(C) "Capital appreciation bond" means a bond for which the	27939
following is true:	27940
(1) The principal amount is less than the amount payable at	27941
maturity or early redemption; and	27942
(2) No interest is payable on a current basis.	27943
(D) "Tuition credit <u>unit</u> " means a credit of the Ohio tuition	27944
trust authority purchased under section 3334.09 of the Revised	27945
Code. <u>"Tuition unit" includes a tuition credit purchased prior to</u>	27946
<u>July 1, 1994.</u>	27947
(E) "College savings bonds" means revenue and other	27948
obligations issued on behalf of the state or any agency or issuing	27949
authority thereof as a zero-coupon or capital appreciation bond,	27950
and designated as college savings bonds as provided in this	27951
chapter. "College savings bond issue" means any issue of bonds of	27952
which any part has been designated as college savings bonds.	27953
(F) "Institution of higher education" means a state	27954
institution of higher education, a private college, university, or	27955

other postsecondary institution located in this state that 27956
possesses a certificate of authorization issued by the Ohio board 27957
of regents pursuant to Chapter 1713. of the Revised Code or a 27958
certificate of registration issued by the state board of career 27959
colleges and schools under Chapter 3332. of the Revised Code, or 27960
an accredited college, university, or other postsecondary 27961
institution located outside this state that is accredited by an 27962
accrediting organization or professional association recognized by 27963
the authority. To be considered an institution of higher 27964
education, an institution shall meet the definition of an eligible 27965
educational institution under section 529 of the Internal Revenue 27966
Code. 27967

(G) "Issuing authority" means any authority, commission, 27968
body, agency, or individual empowered by the Ohio Constitution or 27969
the Revised Code to issue bonds or any other debt obligation of 27970
the state or any agency or department thereof. "Issuer" means the 27971
issuing authority or, if so designated under division (B) of 27972
section 3334.04 of the Revised Code, the treasurer of state. 27973

(H) "Tuition" means the charges imposed to attend an 27974
institution of higher education as an undergraduate, graduate, or 27975
professional student and all fees required as a condition of 27976
enrollment, as determined by the Ohio tuition trust authority. 27977
"Tuition" does not include laboratory fees, room and board, or 27978
other similar fees and charges. 27979

(I) "Weighted average tuition" means the tuition cost 27980
resulting from the following calculation: 27981

(1) Add the products of the annual undergraduate tuition 27982
charged to Ohio residents at each four-year state university 27983
multiplied by that institution's total number of undergraduate 27984
fiscal year equated students; and 27985

(2) Divide the gross total of the products from division 27986

(I)(1) of this section by the total number of undergraduate fiscal 27987
year equated students attending four-year state universities. 27988

When making this calculation, the "annual undergraduate 27989
tuition charged to Ohio residents" shall not incorporate any 27990
tuition reductions that vary in amount among individual recipients 27991
and that are awarded to Ohio residents based upon their particular 27992
circumstances, beyond any minimum amount awarded uniformly to all 27993
Ohio residents. In addition, any tuition reductions awarded 27994
uniformly to all Ohio residents shall be incorporated into this 27995
calculation. 27996

(J) "Zero-coupon bond" means a bond which has a stated 27997
interest rate of zero per cent and on which no interest is payable 27998
until the maturity or early redemption of the bond, and is offered 27999
at a substantial discount from its original stated principal 28000
amount. 28001

(K) "State institution of higher education" includes the 28002
state universities listed in section 3345.011 of the Revised Code, 28003
community colleges created pursuant to Chapter 3354. of the 28004
Revised Code, university branches created pursuant to Chapter 28005
3355. of the Revised Code, technical colleges created pursuant to 28006
Chapter 3357. of the Revised Code, state community colleges 28007
created pursuant to Chapter 3358. of the Revised Code, the medical 28008
university of Ohio at Toledo, and the northeastern Ohio 28009
universities college of medicine. 28010

(L) "Four-year state university" means those state 28011
universities listed in section 3345.011 of the Revised Code. 28012

(M) "Principal amount" refers to the initial offering price 28013
to the public of an obligation, exclusive of the accrued interest, 28014
if any. "Principal amount" does not refer to the aggregate 28015
accrued amount payable at maturity or redemption of an 28016
obligation. 28017

(N) "Scholarship program" means a program registered with the Ohio tuition trust authority pursuant to section 3334.17 of the Revised Code.

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

(P) "Other higher education expenses" means room and board and books, supplies, equipment, and nontuition-related fees associated with the cost of attendance of a beneficiary at an institution of higher education, but only to the extent that such expenses meet the definition of "qualified higher education expenses" under section 529 of the Internal Revenue Code. "Other higher education expenses" does not include tuition as defined in division (H) of this section.

(Q) "Purchaser" means the person signing the tuition payment contract, who controls the account and acquires tuition ~~credits~~ units for an account under the terms and conditions of the contract.

(R) "Contributor" means a person who signs a variable college savings program contract with the Ohio tuition trust authority and contributes to and owns the account created under the contract.

(S) "Contribution" means any payment directly allocated to an account for the benefit of the designated beneficiary of the account.

Sec. 3334.02. (A) In order to help make higher education affordable and accessible to all citizens of Ohio, to maintain state institutions of higher education by helping to provide a stable financial base to these institutions, to provide the citizens of Ohio with financing assistance for higher education and protection against rising tuition costs, to encourage saving to enhance the ability of citizens of Ohio to obtain financial

access to institutions of higher education, to encourage 28048
elementary and secondary students in this state to achieve 28049
academic excellence, and to promote a well-educated and 28050
financially secure population to the ultimate benefit of all 28051
citizens of the state of Ohio, there is hereby created the Ohio 28052
college savings program. The program shall consist of the issuance 28053
of college savings bonds and the sale of tuition ~~credits and, if~~ 28054
~~offered, supplemental credits~~ units. 28055

(B) The provisions of Chapter 1707. of the Revised Code shall 28056
not apply to tuition ~~credits~~ units or any agreement or transaction 28057
related thereto. 28058

(C) To provide the citizens of Ohio with a choice of 28059
tax-advantaged college savings programs and the opportunity to 28060
participate in more than one type of college savings program at a 28061
time, the Ohio tuition trust authority shall establish and 28062
administer a variable college savings program as a qualified state 28063
tuition program under section 529 of the Internal Revenue Code. 28064
The program shall allow contributors to make cash contributions to 28065
variable college savings program accounts created for the purpose 28066
of paying future tuition and other higher education expenses and 28067
providing variable rates of return on contributions. 28068

(D) A person may participate simultaneously in both the Ohio 28069
college savings program and the variable college savings program. 28070

Sec. 3334.03. (A) There is hereby created the Ohio tuition 28071
trust authority, which shall have the powers enumerated in this 28072
chapter and which shall operate as a qualified state tuition 28073
program within the meaning of section 529 of the Internal Revenue 28074
Code. The exercise by the authority of its powers shall be and is 28075
hereby declared an essential state governmental function. The 28076
authority is subject to all provisions of law generally applicable 28077
to state agencies which do not conflict with the provisions of 28078

this chapter. 28079

(B) The Ohio tuition trust authority shall consist of eleven 28080
members, no more than six of whom shall be of the same political 28081
party. Six members shall be appointed by the governor with the 28082
advice and consent of the senate as follows: one shall represent 28083
state institutions of higher education, one shall represent 28084
private nonprofit colleges and universities located in Ohio, one 28085
shall have experience in the field of marketing or public 28086
relations, one shall have experience in the field of information 28087
systems design or management, and two shall have experience in the 28088
field of banking, investment banking, insurance, or law. Four 28089
members shall be appointed by the speaker of the house of 28090
representatives and the president of the senate as follows: the 28091
speaker of the house of representatives shall appoint one member 28092
of the house from each political party and the president of the 28093
senate shall appoint one member of the senate from each political 28094
party. The chancellor of the board of regents shall be an ex 28095
officio voting member; provided, however, that the chancellor may 28096
designate a vice-chancellor of the board of regents to serve as 28097
the chancellor's representative. The political party of the 28098
chancellor shall be deemed the political party of the designee for 28099
purposes of determining that no more than six members are of the 28100
same political party. 28101

Initial gubernatorial appointees to the authority shall serve 28102
staggered terms, with two terms expiring on January 31, 1991, one 28103
term expiring on January 31, 1992, and one term expiring on 28104
January 31, 1993. The governor shall appoint two additional 28105
members to the authority no later than thirty days after ~~the~~ 28106
~~effective date of this amendment~~ March 30, 1999, and their initial 28107
terms shall expire January 31, 2002. Thereafter, terms of office 28108
for gubernatorial appointees shall be for four years. The initial 28109
terms of the four legislative members shall expire on January 31, 28110

1991. Thereafter legislative members shall serve two-year terms, 28111
provided that legislative members may continue to serve on the 28112
authority only if they remain members of the general assembly. Any 28113
vacancy on the authority shall be filled in the same manner as the 28114
original appointment, except that any person appointed to fill a 28115
vacancy shall be appointed to the remainder of the unexpired term. 28116
Any member is eligible for reappointment. 28117

(C) Any member may be removed by the appointing authority for 28118
misfeasance, malfeasance, or willful neglect of duty or for other 28119
cause after notice and a public hearing, unless the notice and 28120
hearing are waived in writing by the member. Members shall serve 28121
without compensation but shall receive their reasonable and 28122
necessary expenses incurred in the conduct of authority business. 28123

(D) The speaker of the house of representatives and the 28124
president of the senate shall each designate a member of the 28125
authority to serve as co-chairpersons. The six gubernatorial 28126
appointees and the chancellor of the board of regents or the 28127
chancellor's designee shall serve as the executive committee of 28128
the authority, and shall elect an executive chairperson from among 28129
the executive committee members. The authority and the executive 28130
committee may elect such other officers as determined by the 28131
authority or the executive committee respectively. The authority 28132
shall meet at least annually at the call of either co-chairperson 28133
and at such other times as either co-chairperson or the authority 28134
determines necessary. In the absence of both co-chairpersons, the 28135
executive chairperson shall serve as the presiding officer of the 28136
authority. The executive committee shall meet at the call of the 28137
executive chairperson or as the executive committee determines 28138
necessary. The authority may delegate to the executive committee 28139
such duties and responsibilities as the authority determines 28140
appropriate, except that the authority may not delegate to the 28141
executive committee the final determination of the annual price of 28142

a tuition ~~credit~~ unit, the final designation of bonds as college 28143
savings bonds, or the employment of an executive director of the 28144
authority. Upon such delegation, the executive committee shall 28145
have the authority to act pursuant to such delegation without 28146
further approval or action by the authority. A majority of the 28147
authority shall constitute a quorum of the authority, and the 28148
affirmative vote of a majority of the members present shall be 28149
necessary for any action taken by the authority. A majority of the 28150
executive committee shall constitute a quorum of the executive 28151
committee, and the affirmative vote of a majority of the members 28152
present shall be necessary for any action taken by the executive 28153
committee. No vacancy in the membership of the authority or the 28154
executive committee shall impair the rights of a quorum to 28155
exercise all rights and perform all duties of the authority or the 28156
executive committee respectively. 28157

Sec. 3334.07. (A) The Ohio tuition trust authority shall 28158
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 28159
board of regents shall cooperate with the authority and provide 28160
technical assistance upon request. 28161

(B) Annually, the authority shall determine the weighted 28162
average tuition of four-year state universities in the academic 28163
year that begins on or after the first day of August of the 28164
current calendar year, and shall establish the price of a tuition 28165
~~credit~~ unit in the ensuing sales period. Such price shall be based 28166
on sound actuarial principles, and shall, to the extent 28167
actuarially possible, reasonably approximate one per cent of the 28168
weighted average tuition for that academic year plus the costs of 28169
administering the ~~tuition-credit~~ program that are in excess of 28170
general revenue fund appropriations for administrative costs. The 28171
sales period to which such price applies shall consist of twelve 28172
months, and the authority by rule shall establish the date on 28173

which the sales period begins. If circumstances arise during a 28174
sales period that the authority determines causes the price of 28175
tuition ~~credits~~ units to be insufficient to ensure the actuarial 28176
soundness of the Ohio tuition trust fund, the authority may adjust 28177
the price of tuition ~~credits~~ units purchased during the remainder 28178
of the sales period. To promote the purchase of tuition ~~credits~~ 28179
units and in accordance with actuarially sound principles, the 28180
authority may adjust the sales price as part of incentive 28181
programs, such as discounting for ~~lump-sum~~ lump sum purchases and 28182
multi-year installment plans at a fixed rate of purchase. 28183

Sec. 3334.08. (A) Subject to division (B) of this section, in 28184
addition to any other powers conferred by this chapter, the Ohio 28185
tuition trust authority may do any of the following: 28186

(1) Impose reasonable residency requirements for 28187
beneficiaries of tuition ~~credits~~ units; 28188

(2) Impose reasonable limits on the number of tuition ~~credit~~ 28189
unit participants; 28190

(3) Impose and collect administrative fees and charges in 28191
connection with any transaction under this chapter; 28192

(4) Purchase insurance from insurers licensed to do business 28193
in this state providing for coverage against any loss in 28194
connection with the authority's property, assets, or activities or 28195
to further ensure the value of tuition ~~credits~~ units; 28196

(5) Indemnify or purchase policies of insurance on behalf of 28197
members, officers, and employees of the authority from insurers 28198
licensed to do business in this state providing for coverage for 28199
any liability incurred in connection with any civil action, 28200
demand, or claim against a director, officer, or employee by 28201
reason of an act or omission by the director, officer, or employee 28202
that was not manifestly outside the scope of the employment or 28203

official duties of the director, officer, or employee or with
malicious purpose, in bad faith, or in a wanton or reckless
manner; 28204
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(6) Make, execute, and deliver contracts, conveyances, and
other instruments necessary to the exercise and discharge of the
powers and duties of the authority; 28207
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(7) Promote, advertise, and publicize the Ohio college
savings program and the variable college savings program; 28210
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(8) Adopt rules under section 111.15 of the Revised Code for
the implementation of the Ohio college savings program; 28212
28213

(9) Contract, for the provision of all or part of the
services necessary for the management and operation of the Ohio
college savings program and the variable college savings program,
with a bank, trust company, savings and loan association,
insurance company, or licensed dealer in securities if the bank,
company, association, or dealer is authorized to do business in
this state and information about the contract is filed with the
controlling board pursuant to division (D)(6) of section 127.16 of
the Revised Code; 28214
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(10) Contract for other services, or for goods, needed by the
authority in the conduct of its business, including but not
limited to credit card services; 28223
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(11) Employ an executive director and other personnel as
necessary to carry out its responsibilities under this chapter,
and fix the compensation of these persons. All employees of the
authority shall be in the unclassified civil service and shall be
eligible for membership in the public employees retirement system. 28226
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(12) Contract with financial consultants, actuaries,
auditors, and other consultants as necessary to carry out its
responsibilities under this chapter; 28231
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(13) Enter into agreements with any agency of the state or 28234
its political subdivisions or with private employers under which 28235
an employee may agree to have a designated amount deducted in each 28236
payroll period from the wages or salary due the employee for the 28237
purpose of purchasing tuition ~~credits~~ units pursuant to a tuition 28238
payment contract or making contributions pursuant to a variable 28239
college savings program contract; 28240

(14) Enter into an agreement with the treasurer of state 28241
under which the treasurer of state will receive, and credit to the 28242
Ohio tuition trust fund or variable college savings program fund, 28243
from any bank or savings and loan association authorized to do 28244
business in this state, amounts that a depositor of the bank or 28245
association authorizes the bank or association to withdraw 28246
periodically from the depositor's account for the purpose of 28247
purchasing tuition ~~credits~~ units pursuant to a tuition payment 28248
contract or making contributions pursuant to a variable college 28249
savings program contract; 28250

(15) Solicit and accept gifts, grants, and loans from any 28251
person or governmental agency and participate in any governmental 28252
program; 28253

(16) Impose limits on the number of ~~credits~~ units which may 28254
be purchased on behalf of or assigned or awarded to any 28255
beneficiary and on the total amount of contributions that may be 28256
made on behalf of a beneficiary; 28257

(17) Impose restrictions on the substitution of another 28258
individual for the original beneficiary under the Ohio college 28259
savings program; 28260

(18) Impose a limit on the age of a beneficiary, above which 28261
tuition ~~credits~~ units may not be purchased on behalf of that 28262
beneficiary; 28263

(19) Enter into a cooperative agreement with the treasurer of 28264

state to provide for the direct disbursement of payments under	28265
tuition payment or variable college savings program contracts;	28266
(20) Determine the other higher education expenses for which	28267
tuition credits <u>units</u> or contributions may be used;	28268
(21) Terminate any tuition payment or variable college	28269
savings program contract if no purchases or contributions are made	28270
for a period of three years or more and there are fewer than a	28271
total of five tuition units or tuition credits or less than a	28272
dollar amount set by rule on account, provided that notice of a	28273
possible termination shall be provided in advance, explaining any	28274
options to prevent termination, and a reasonable amount of time	28275
shall be provided within which to act to prevent a termination;	28276
(22) Maintain a separate account for each tuition payment or	28277
variable college savings program contract;	28278
(23) Perform all acts necessary and proper to carry out the	28279
duties and responsibilities of the authority pursuant to this	28280
chapter.	28281
(B) The authority shall adopt rules under section 111.15 of	28282
the Revised Code for the implementation and administration of the	28283
variable college savings program. The rules shall provide	28284
taxpayers with the maximum tax advantages and flexibility	28285
consistent with section 529 of the Internal Revenue Code and	28286
regulations adopted thereunder with regard to disposition of	28287
contributions and earnings, designation of beneficiaries, and	28288
rollover of account assets to other programs.	28289
(C) Except as otherwise specified in this chapter, the	28290
provisions of Chapters 123., 125., and 4117. of the Revised Code	28291
shall not apply to the authority. The department of administrative	28292
services shall, upon the request of the authority, act as the	28293
authority's agent for the purchase of equipment, supplies,	28294
insurance, or services, or the performance of administrative	28295

services pursuant to Chapter 125. of the Revised Code. 28296

Sec. 3334.09. (A) Except in the case of a scholarship program 28297
established in accordance with section 3334.17 of the Revised 28298
Code, the Ohio tuition trust authority may enter into a tuition 28299
payment contract with any person for the purchase of tuition 28300
~~credits~~ units if either the purchaser or the beneficiary is a 28301
resident of this state at the time the contract is entered into. A 28302
tuition payment contract shall allow any person to purchase 28303
tuition ~~credits~~ units at the price determined by the authority 28304
pursuant to section 3334.07 or 3334.12 of the Revised Code for the 28305
year in which the tuition ~~credit~~ unit is purchased. The purchaser 28306
shall name in the payment contract one specific individual as the 28307
beneficiary for the tuition ~~credits~~ units. 28308

In accordance with rules of the authority, ~~credits~~ units may 28309
be transferred to the credit of another beneficiary and a new 28310
beneficiary may be substituted for the beneficiary originally 28311
named in the contract. 28312

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to 28313
an amount equal to one per cent of the weighted average tuition. 28314

(C) Nothing in this chapter or in any tuition payment 28315
contract entered into pursuant to this chapter shall be construed 28316
as a guarantee by the state, the authority, or any institution of 28317
higher education that a beneficiary will be admitted to an 28318
institution of higher education, or, upon admission to an 28319
institution of higher education, will be permitted to continue to 28320
attend or will receive a degree from an institution of higher 28321
education. Nothing in this chapter or in any tuition payment 28322
contract entered into pursuant to this chapter shall be considered 28323
a guarantee that the beneficiary's cost of tuition at an 28324
institution of higher education other than a state institution of 28325
higher education will be covered in full by the proceeds of the 28326

beneficiary's tuition credits <u>units</u> .	28327
(D) The following information shall be disclosed in writing	28328
to each purchaser of tuition credits <u>units</u> and, where appropriate,	28329
to each entity establishing a scholarship program under section	28330
3334.17 of the Revised Code:	28331
(1) The terms and conditions for the purchase and use of	28332
tuition credits <u>units</u> ;	28333
(2) In the case of a contract described by division (A) of	28334
this section, any restrictions on the substitution of another	28335
individual for the original beneficiary and any restrictions on	28336
the transfer of ownership of credits <u>units</u> in the payment account;	28337
(3) The person or entity entitled to terminate the contract;	28338
(4) The terms and conditions under which the contract may be	28339
terminated and the amount of the refund, if any, to which the	28340
person or entity terminating the contract, or that person's or	28341
entity's designee, is entitled upon termination;	28342
(5) The obligation of the authority to make payments to a	28343
beneficiary, or an institution of higher education on behalf of a	28344
beneficiary, under division (B) of this section based upon the	28345
number of tuition credits <u>units</u> purchased on behalf of the	28346
beneficiary or awarded to the beneficiary pursuant to a	28347
scholarship program;	28348
(6) The method by which tuition credits <u>units</u> shall be	28349
applied toward payment of tuition and other higher education	28350
expenses if in any academic term the beneficiary is a part-time	28351
student;	28352
(7) The period of time during which a beneficiary may receive	28353
benefits under the contract;	28354
(8) The terms and conditions under which money may be wholly	28355
or partially withdrawn from the program, including, but not	28356

limited to, any reasonable charges and fees that may be imposed 28357
for withdrawal; 28358

(9) All other rights and obligations of the purchaser and the 28359
authority, including the provisions of division (A) of section 28360
3334.12 of the Revised Code, and any other terms, conditions, and 28361
provisions the authority considers necessary and appropriate. 28362

(E) A tuition payment contract may provide that the authority 28363
will pay directly to the institution of higher education in which 28364
a beneficiary is enrolled during a term the amount represented by 28365
the tuition ~~credits~~ units being used that term. 28366

(F) A tuition payment contract described by division (A) of 28367
this section may provide that if the contract has not been 28368
terminated or ~~credits~~ units purchased under the contract have not 28369
been applied toward the payment of tuition or other higher 28370
education expenses within a specified period of time, the 28371
authority may, after making a reasonable effort to locate the 28372
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 28373
person designated in the contract to act on behalf of the 28374
purchaser of the ~~credits~~ units or the beneficiary, terminate the 28375
contract and retain the amounts payable under the contract. 28376

(G) If, at any time after tuition ~~credits~~ units are purchased 28377
on behalf of a beneficiary or awarded to a beneficiary or pursuant 28378
to a scholarship program, the beneficiary becomes a nonresident of 28379
this state, or, if the beneficiary was not a resident of this 28380
state at the time the tuition payment contract was entered into, 28381
the purchaser becomes a nonresident of this state, ~~credits~~ units 28382
purchased or awarded while the beneficiary was a resident may be 28383
applied on behalf of the beneficiary toward the payment of tuition 28384
at an institution of higher education and other higher education 28385
expenses in the manner specified in division (B) of this section, 28386
except that if the beneficiary enrolls in a state institution of 28387

higher education, the beneficiary shall be responsible for payment 28388
of all nonresident fees charged to out-of-state residents by the 28389
institution in which the beneficiary is enrolled. 28390

Sec. 3334.10. Divisions (A), and (B), ~~(C), and (D)~~ of this 28391
section do not apply to scholarship programs established under 28392
section 3334.17 of the Revised Code. 28393

(A) Unless otherwise provided for in the ~~contract, a~~ tuition 28394
payment contract ~~may be terminated by the purchaser under any of~~ 28395
~~the following circumstances upon the written request of the~~ 28396
~~purchaser to the authority:~~ 28397

~~(1) Upon the death or permanent disability of the~~ 28398
~~beneficiary;~~ 28399

~~(2) Upon notification to the Ohio tuition trust authority in~~ 28400
~~writing that the beneficiary is age eighteen or older, has decided~~ 28401
~~not to attend an institution of higher education, and requests~~ 28402
~~that the contract be terminated;~~ 28403

~~(3) Upon the beneficiary's completion of the degree~~ 28404
~~requirements at an institution of higher education;~~ 28405

~~(4) Upon the rollover of all amounts in a tuition credit~~ 28406
~~account to an equivalent account in another state;~~ 28407

~~(5) Upon the occurrence of other circumstances determined by~~ 28408
~~the authority to be grounds for termination.~~ 28409

~~(B) The authority shall determine the method and schedule for~~ 28410
~~payment of refunds upon termination of a tuition payment contract.~~ 28411
, the purchaser may rollover amounts to another qualified tuition 28412
program under section 529 of the Internal Revenue Code or 28413
terminate the contract for any reason by filing written notice 28414
with the Ohio tuition trust authority. 28415

(1) ~~In cases described by division (A)(2) or (3) of this~~ 28416
~~section,~~ If the contract is terminated and the beneficiary is 28417

~~under eighteen years of age, the authority shall use actuarially~~ 28418
~~sound principles to determine the amount of the refund shall be~~ 28419
~~equal to not less than one per cent of the weighted average~~ 28420
~~tuition in the academic year the refund is paid, multiplied by the~~ 28421
~~number of tuition credits purchased and not used, minus any~~ 28422
~~reasonable charges and fees provided for by the authority, or such~~ 28423
~~other lesser sum as shall be determined by the authority but only~~ 28424
~~to the extent that such a lesser sum is necessary to meet the~~ 28425
~~refund penalty requirements for qualified state tuition programs~~ 28426
~~under section 529 of the Internal Revenue Code.~~ 28427

~~(2) In cases described by division (A)(1) of this section If~~ 28428
~~the contract is terminated because of the death or permanent~~ 28429
~~disability of the beneficiary, the amount of the refund shall be~~ 28430
~~equal to the greater of the following:~~ 28431

~~(a) One per cent of the weighted average tuition in the~~ 28432
~~academic year the refund is paid, multiplied by the number of~~ 28433
~~tuition ~~credits~~ units purchased and not used;~~ 28434

~~(b) The total purchase price of all tuition ~~credits~~ units~~ 28435
~~purchased for the beneficiary and not used.~~ 28436

~~(3) In cases described by division (A)(5) of this section,~~ 28437
~~the amount of the refund shall be either of the following as~~ 28438
~~determined by the authority:~~ 28439

~~(a) The refund provided by division (B)(1) of this section;~~ 28440

~~(b) The refund provided by division (B)(2) of this section,~~ 28441
~~or such other lesser sum as shall be determined by the authority~~ 28442
~~but only to the extent that such a lesser sum is necessary to meet~~ 28443
~~the refund penalty requirements for qualified state tuition~~ 28444
~~programs under section 529 of the Internal Revenue Code If all or~~ 28445
~~part of the amount accrued under the contract is liquidated for a~~ 28446
~~rollover to another qualified tuition program under section 529 of~~ 28447
~~the Internal Revenue Code, the rollover amount shall be determined~~ 28448

in an actuarially sound manner. 28449

~~(C) Unless otherwise provided for in the contract, a (B) The contributor of a variable college savings program account may be terminated by rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contributor account for any reason upon the written request of the contributor to the authority. Termination of a variable college savings program account shall occur no earlier than a maturity period set by the authority after the first contribution is made to the account.~~ 28450
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~~(D) The authority shall determine the method and schedule for payment of refunds upon termination of a variable savings program account by filing written notice with the Ohio tuition trust authority.~~ 28459
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~~(1) The contributor under a variable savings program contract may receive a refund of the an amount equal to the account balance in an account, less any applicable administrative fees, if the account is terminated upon the death or permanent disability of the beneficiary or, to the extent allowed under rules of the authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.~~ 28463
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~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~ 28470
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~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the~~ 28477
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~~Internal Revenue Code.~~ 28480

~~(E) In the case of a (C) A scholarship program, may request a~~ 28481
~~refund of tuition credits units in the program's account may be~~ 28482
~~made only for just cause with the approval of by filing a written~~ 28483
~~request with the authority. The refund shall be paid to the entity~~ 28484
~~that established the scholarship program or, with that entity's~~ 28485
~~approval, to the authority if this is authorized by federal tax~~ 28486
~~law. The amount of any refund shall be determined by the authority~~ 28487
~~and shall meet the requirements for refunds made on account of~~ 28488
~~scholarships under section 529 of the Internal Revenue Code.~~ 28489

~~(F) If a beneficiary is awarded a scholarship other than~~ 28490
~~under a scholarship program, a waiver of tuition, or similar~~ 28491
~~subvention that the authority determines cannot be converted into~~ 28492
~~money by the beneficiary, the authority shall, during each~~ 28493
~~academic term that the beneficiary furnishes the authority such~~ 28494
~~information about the scholarship, waiver, or similar subvention~~ 28495
~~as the authority requires, refund to the person designated in the~~ 28496
~~contract, or, in the case of a beneficiary under a scholarship~~ 28497
~~program, to the beneficiary an amount equal to the value that the~~ 28498
~~tuition credits or the amounts in the variable college savings~~ 28499
~~program account that are not needed on account of the scholarship,~~ 28500
~~waiver, or similar subvention would otherwise have to the~~ 28501
~~beneficiary that term at the institution of higher education where~~ 28502
~~the beneficiary is enrolled. The authority may, at its sole~~ 28503
~~option, designate the institution of higher education at which the~~ 28504
~~beneficiary is enrolled as the agent of the authority for purposes~~ 28505
~~of refunds pursuant to this division.~~ 28506

~~(G) If, in any academic term for which tuition credits or any~~ 28507
~~amounts in a variable college savings program account have been~~ 28508
~~used to pay all or part of a beneficiary's tuition, the~~ 28509
~~beneficiary withdraws from the institution of higher education at~~ 28510
~~which the beneficiary is enrolled prior to the end of the academic~~ 28511

~~term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.~~

~~(H)(D)~~ The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract.

Sec. 3334.11. (A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition ~~credits~~ units under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income

earned by the fund, and all other receipts of the authority from 28543
any other source that the authority determines appropriate, shall 28544
be deposited in the fund. No purchaser or beneficiary of tuition 28545
~~credits~~ units shall have any claim against the funds of any state 28546
institution of higher education. All investment fees and other 28547
costs incurred in connection with the exercise of the investment 28548
powers of the authority pursuant to divisions (D) and (E) of this 28549
section shall be paid from the assets of the fund. 28550

(B) Unless otherwise provided by the authority, the assets of 28551
the Ohio tuition trust fund shall be expended in the following 28552
order: 28553

(1) To make payments to beneficiaries, or institutions of 28554
higher education on behalf of beneficiaries, under division (B) of 28555
section 3334.09 of the Revised Code; 28556

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 28557
~~(F)~~ (C) of section 3334.10 of the Revised Code; 28558

(3) To pay the investment fees and other costs of 28559
administering the fund. 28560

(C)(1) Except as may be provided in an agreement under 28561
division (A)(19) of section 3334.08 of the Revised Code, all 28562
disbursements from the Ohio tuition trust fund shall be made by 28563
the treasurer of state on order of a designee of the authority. 28564

(2) The treasurer of state shall deposit any portion of the 28565
Ohio tuition trust fund not needed for immediate use in the same 28566
manner as state funds are deposited. 28567

(D) The authority is the trustee of the Ohio tuition trust 28568
fund. The authority shall have full power to invest the assets of 28569
the fund and in exercising this power shall be subject to the 28570
limitations and requirements contained in divisions (K) to (M) of 28571
this section and sections 145.112 and 145.113 of the Revised Code. 28572
The evidences of title of all investments shall be delivered to 28573

the treasurer of state or to a qualified trustee designated by the 28574
treasurer of state as provided in section 135.18 of the Revised 28575
Code. Assets of the fund shall be administered by the authority in 28576
a manner designed to be actuarially sound so that the assets of 28577
the fund will be sufficient to satisfy the obligations of the 28578
authority pursuant to tuition payment contracts and defray the 28579
reasonable expenses of administering the fund. 28580

(E) The public employees retirement board shall, with the 28581
approval of the authority, exercise the investment powers of the 28582
authority as set forth in division (D) of this section until the 28583
authority determines that assumption and exercise by the authority 28584
of the investment powers is financially and administratively 28585
feasible. The investment powers shall be exercised by the public 28586
employees retirement board in a manner agreed upon by the 28587
authority that maximizes the return on investment and minimizes 28588
the administrative expenses. 28589

(F)(1) The authority shall maintain a separate account for 28590
each tuition payment contract entered into pursuant to division 28591
(A) of section 3334.09 of the Revised Code for the purchase of 28592
tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 28593
showing the beneficiary or beneficiaries of that contract and the 28594
number of tuition ~~credits~~ units purchased pursuant to that 28595
contract. Upon request of any beneficiary or person who has 28596
entered into a tuition payment contract, the authority shall 28597
provide a statement indicating, in the case of a beneficiary, the 28598
number of tuition ~~credits~~ units purchased on behalf of the 28599
beneficiary, or in the case of a person who has entered into a 28600
tuition payment contract, the number of tuition ~~credits~~ units 28601
purchased, used, or refunded pursuant to that contract. A 28602
beneficiary and person that have entered into a tuition payment 28603
contract each may file only one request under this division in any 28604
year. 28605

(2) The authority shall maintain an account for each 28606
scholarship program showing the number of tuition ~~credits~~ units 28607
that have been purchased for or donated to the program and the 28608
number of tuition ~~credits~~ units that have been used. Upon the 28609
request of the entity that established the scholarship program, 28610
the authority shall provide a statement indicating these numbers. 28611

(G) In addition to the Ohio tuition trust fund, there is 28612
hereby established a reserve fund that shall be in the custody of 28613
the treasurer of state but shall not be part of the state 28614
treasury, and shall be known as the Ohio tuition trust reserve 28615
fund, and an operating fund that shall be part of the state 28616
treasury, and shall be known as the Ohio tuition trust operating 28617
fund. That portion of payments received by the authority or the 28618
treasurer of state from persons purchasing tuition ~~credits~~ units 28619
under tuition payment contracts that the authority determines is 28620
not actuarially necessary for the payment of obligations of the 28621
authority pursuant to tuition payment contracts, any interest and 28622
investment income earned by the reserve fund, any administrative 28623
charges and fees imposed by the authority on transactions under 28624
this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 28625
units, and all other receipts from any other source that the 28626
authority determines appropriate, shall be deposited in the 28627
reserve fund to pay the operating expenses of the authority and 28628
the costs of administering the program. The assets of the reserve 28629
fund may be invested in the same manner and subject to the same 28630
limitations set forth in divisions (D), (E), and (K) to (M) of 28631
this section and sections 145.112 and 145.113 of the Revised Code. 28632
All investment fees and other costs incurred in connection with 28633
the exercise of the investment powers shall be paid from the 28634
assets of the reserve fund. Except as otherwise provided for in 28635
this chapter, all operating expenses of the authority and costs of 28636
administering the program shall be paid from the operating fund. 28637

The treasurer shall, upon request of the authority, transfer funds 28638
from the reserve fund to the operating fund as the authority 28639
determines appropriate to pay those current operating expenses of 28640
the authority and costs of administering the program as the 28641
authority designates. Any interest or investment income earned on 28642
the assets of the operating fund shall be deposited in the 28643
operating fund. 28644

(H) In January of each year the authority shall report to 28645
each person who received any payments or refunds from the 28646
authority during the preceding year information relative to the 28647
value of the payments or refunds to assist in determining that 28648
person's tax liability. 28649

(I) The authority shall report to the tax commissioner any 28650
information, and at the times, as the tax commissioner requires to 28651
determine any tax liability that a person may have incurred during 28652
the preceding year as a result of having received any payments or 28653
refunds from the authority. 28654

(J) All records of the authority indicating the identity of 28655
purchasers and beneficiaries of tuition ~~credits~~ units or college 28656
savings bonds, the number of tuition ~~credits~~ units purchased, 28657
used, or refunded under a tuition payment contract, and the number 28658
of college savings bonds purchased, held, or redeemed are not 28659
public records within the meaning of section 149.43 of the Revised 28660
Code. 28661

(K) The authority and other fiduciaries shall discharge their 28662
duties with respect to the funds with care, skill, prudence, and 28663
diligence under the circumstances then prevailing that a prudent 28664
person acting in a like capacity and familiar with such matters 28665
would use in the conduct of an enterprise of a like character and 28666
with like aims; and by diversifying the investments of the assets 28667
of the funds so as to minimize the risk of large losses, unless 28668
under the circumstances it is clearly prudent not to do so. 28669

To facilitate investment of the funds, the authority may 28670
establish a partnership, trust, limited liability company, 28671
corporation, including a corporation exempt from taxation under 28672
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 28673
amended, or any other legal entity authorized to transact business 28674
in this state. 28675

(L) In exercising its fiduciary responsibility with respect 28676
to the investment of the assets of the funds, it shall be the 28677
intent of the authority to give consideration to investments that 28678
enhance the general welfare of the state and its citizens where 28679
the investments offer quality, return, and safety comparable to 28680
other investments currently available to the authority. In 28681
fulfilling this intent, equal consideration shall also be given to 28682
investments otherwise qualifying under this section that involve 28683
minority owned and controlled firms and firms owned and controlled 28684
by women, either alone or in joint venture with other firms. 28685

The authority shall adopt, in regular meeting, policies, 28686
objectives, or criteria for the operation of the investment 28687
program that include asset allocation targets and ranges, risk 28688
factors, asset class benchmarks, time horizons, total return 28689
objectives, and performance evaluation guidelines. In adopting 28690
policies and criteria for the selection of agents with whom the 28691
authority may contract for the administration of the assets of the 28692
funds, the authority shall give equal consideration to minority 28693
owned and controlled firms, firms owned and controlled by women, 28694
and ventures involving minority owned and controlled firms and 28695
firms owned and controlled by women that otherwise meet the 28696
policies and criteria established by the authority. Amendments and 28697
additions to the policies and criteria shall be adopted in regular 28698
meeting. The authority shall publish its policies, objectives, and 28699
criteria under this provision no less often than annually and 28700
shall make copies available to interested parties. 28701

When reporting on the performance of investments, the 28702
authority shall comply with the performance presentation standards 28703
established by the association for investment management and 28704
research. 28705

(M) All investments shall be purchased at current market 28706
prices and the evidences of title of the investments shall be 28707
placed in the hands of the treasurer of state, who is hereby 28708
designated as custodian thereof, or in the hands of the treasurer 28709
of state's authorized agent. The treasurer of state or the agent 28710
shall collect the principal, dividends, distributions, and 28711
interest thereon as they become due and payable and place them 28712
when so collected into the custodial funds. 28713

The treasurer of state shall pay for investments purchased by 28714
the authority on receipt of written or electronic instructions 28715
from the authority or the authority's designated agent authorizing 28716
the purchase and pending receipt of the evidence of title of the 28717
investment by the treasurer of state or the treasurer of state's 28718
authorized agent. The authority may sell investments held by the 28719
authority, and the treasurer of state or the treasurer of state's 28720
authorized agent shall accept payment from the purchaser and 28721
deliver evidence of title of the investment to the purchaser on 28722
receipt of written or electronic instructions from the authority 28723
or the authority's designated agent authorizing the sale, and 28724
pending receipt of the moneys for the investments. The amount 28725
received shall be placed in the custodial funds. The authority and 28726
the treasurer of state may enter into agreements to establish 28727
procedures for the purchase and sale of investments under this 28728
division and the custody of the investments. 28729

No purchase or sale of any investment shall be made under 28730
this section except as authorized by the authority. 28731

Any statement of financial position distributed by the 28732

authority shall include fair value, as of the statement date, of 28733
all investments held by the authority under this section. 28734

Sec. 3334.12. Notwithstanding anything to the contrary in 28735
sections 3334.07 and 3334.09 of the Revised Code: 28736

(A) Annually, the Ohio tuition trust authority shall have the 28737
actuarial soundness of the Ohio tuition trust fund evaluated by a 28738
nationally recognized actuary and shall determine whether 28739
additional assets are necessary to defray the obligations of the 28740
authority. If, after the authority sets the price for tuition 28741
~~credits~~ units, circumstances arise that the executive director 28742
determines necessitate an additional evaluation of the actuarial 28743
soundness of the fund, the executive director shall have a 28744
nationally recognized actuary conduct the necessary evaluation. If 28745
the assets of the fund are insufficient to ensure the actuarial 28746
soundness of the fund, the authority shall adjust the price of 28747
subsequent purchases of tuition ~~credits~~ units to the extent 28748
necessary to help restore the actuarial soundness of the fund. If, 28749
at any time, the adjustment is likely, in the opinion of the 28750
authority, to diminish the marketability of tuition ~~credits~~ units 28751
to an extent that the continued sale of the ~~credits~~ units likely 28752
would not restore the actuarial soundness of the fund and external 28753
economic factors continue to negatively impact the soundness of 28754
the program, the authority may suspend sales, either permanently 28755
or temporarily, of tuition ~~credits~~ units. During any suspension, 28756
the authority shall continue to service existing college savings 28757
program accounts. 28758

(B) Upon termination of the program or liquidation of the 28759
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 28760
the Ohio tuition trust operating fund, any remaining assets of the 28761
funds after all obligations of the funds have been satisfied 28762
pursuant to division (B) of section 3334.11 of the Revised Code 28763

shall be transferred to the general revenue fund of the state. 28764

(C) The authority shall prepare and cause to have audited an 28765
annual financial report on all financial activity of the Ohio 28766
tuition trust authority within ninety days of the end of the 28767
fiscal year. The authority shall transmit a copy of the audited 28768
financial report to the governor, the president of the senate, the 28769
speaker of the house of representatives, and the minority leaders 28770
of the senate and the house of representatives. Copies of the 28771
audited financial report also shall be made available, upon 28772
request, to the persons entering into contracts with the authority 28773
and to prospective purchasers of tuition ~~credits~~ units and 28774
prospective contributors to variable college savings program 28775
accounts. 28776

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ 28777
unit or a payment under section 3334.09 of the Revised Code 28778
pursuant to a tuition ~~credit~~ payment contract, a scholarship 28779
program, or a variable college savings program account shall not 28780
be subject to execution, garnishment, attachment, the operation of 28781
bankruptcy or the insolvency laws, or other process of law. 28782

(B) The right of a person to a tuition ~~credit~~ unit or a 28783
payment under section 3334.09 of the Revised Code pursuant to a 28784
tuition ~~credit~~ payment contract, a scholarship program, or a 28785
variable college savings program account shall not be used as 28786
security or collateral for a loan. 28787

Sec. 3334.16. The general assembly hereby finds that the 28788
prepaid tuition program providing for the sale of tuition credits 28789
units by the Ohio tuition trust authority is an official state 28790
function, offered through an agency of this state, which agency 28791
receives state appropriations. Therefore, the authority is 28792
directed by the state of Ohio to assume it is exempt from federal 28793

tax liability. 28794

Sec. 3334.17. (A) The state, any political subdivision of the 28795
state, and any organization that is exempt from federal income 28796
taxation under section 501 (a) and described in section 501 (c)(3) 28797
of the Internal Revenue Code, including the Ohio tuition trust 28798
authority if this is authorized under federal tax law, may 28799
establish a scholarship program to award scholarships consisting 28800
of contributions made to any college savings program for students. 28801
Any scholarship program established under this section shall be 28802
registered with the authority. The authority shall be notified of 28803
the name and address of each scholarship beneficiary under the 28804
program, the amounts awarded, and the institution of higher 28805
education in which the beneficiary is enrolled. Scholarship 28806
beneficiaries shall be selected by the entity establishing the 28807
scholarship program, in accordance with criteria established by 28808
the entity. 28809

(B) Any person or governmental entity may purchase tuition 28810
~~credits~~ units on behalf of a scholarship program that is or is to 28811
be established in accordance with division (A) of this section at 28812
the same price as is established for the purchase of ~~credits~~ units 28813
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 28814
units shall have the same value to the beneficiary of a 28815
scholarship awarded pursuant to this section as they would have to 28816
any other beneficiary pursuant to division (B) of section 3334.09 28817
of the Revised Code. 28818

(C) The entity establishing and maintaining a scholarship 28819
program shall specify whether a scholarship beneficiary may 28820
receive a refund or payment for the amount awarded under the 28821
scholarship program directly from the authority, or whether the 28822
amount awarded shall be paid by the authority only to the 28823
institution of higher education in which the student is enrolled. 28824

(D) If a scholarship beneficiary does not use the amount 28825
awarded within a length of time specified under the scholarship 28826
program, the amount may be awarded to another beneficiary. 28827

Sec. 3334.18. (A) A variable college savings program 28828
established by the Ohio tuition trust authority shall include 28829
provisions for a contract to be entered into between a contributor 28830
and the authority that will authorize the contributor to open an 28831
account for a beneficiary and authorize the contributor to 28832
substitute a new beneficiary for one originally named in the 28833
contract, to the extent permitted by section 529 of the Internal 28834
Revenue Code. 28835

(B) The authority shall provide adequate safeguards to 28836
prevent total contributions to a variable college savings program 28837
account or purchases of tuition ~~credits~~ units, either separately 28838
or combined, that are made on behalf of a beneficiary from 28839
exceeding the amount necessary to provide for the tuition and 28840
other higher education expenses of the beneficiary, consistent 28841
with the maximum contributions permitted by section 529 of the 28842
Internal Revenue Code. However, in no event shall contributions or 28843
purchases exceed the allowable limit for a qualified ~~state~~ tuition 28844
program under section 529 of the Internal Revenue Code. 28845

(C)(1) Participation in the variable college savings program 28846
does not guarantee that contributions and the investment return on 28847
contributions, if any, will be adequate to cover future tuition 28848
and other higher education expenses or that a beneficiary will be 28849
admitted to or permitted to continue to attend an institution of 28850
higher education. 28851

(2) Returns on contributors' investments in the variable 28852
college savings program are not guaranteed by the state and the 28853
contributors to the variable college savings program assume all 28854
investment risk, including the potential loss of principal and 28855

liability for penalties such as those levied for noneducational
withdrawals. 28856
28857

(3) The state shall have no debt or obligation to any 28858
contributor, beneficiary, or any other person as a result of the 28859
establishment of the program, and the state assumes no risk or 28860
liability for funds invested in the variable college savings 28861
program. 28862

(4) Informational materials about the variable college 28863
savings program prepared by the authority or its agents and 28864
provided to prospective contributors shall state clearly the 28865
information set forth in division (C) of this section. 28866

Sec. 3345.32. (A) As used in this section: 28867

(1) "State university or college" means the institutions 28868
described in section 3345.27 of the Revised Code, the northeastern 28869
Ohio universities college of medicine, and the medical college of 28870
Ohio at Toledo. 28871

(2) "Resident" has the meaning specified by rule of the Ohio 28872
board of regents. 28873

(3) "Statement of selective service status" means a statement 28874
certifying one of the following: 28875

(a) That the individual filing the statement has registered 28876
with the selective service system in accordance with the "Military 28877
Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as 28878
amended; 28879

(b) That the individual filing the statement is not required 28880
to register with the selective service for one of the following 28881
reasons: 28882

(i) The individual is under eighteen or over twenty-six years 28883
of age; 28884

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended;

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The board of regents may require that such statements be accompanied by documentation specified by rule of the board.

(C) A state university or college that enrolls in any course,

class, or program a male student born after December 31, 1959, who 28916
has not filed a statement of selective service status with the 28917
university or college shall, regardless of the student's 28918
residency, charge the student any tuition surcharge charged 28919
students who are not residents of this state. 28920

(D) No male born after December 31, 1959, shall be eligible 28921
to receive any loan, grant, scholarship, or other financial 28922
assistance for educational expenses under section 3315.33, 28923
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 28924
5910.032, or 5919.34 of the Revised Code unless that person has 28925
filed a statement of selective service status with that person's 28926
institution of higher education. 28927

(E) If an institution of higher education receives a 28928
statement from an individual certifying that the individual has 28929
registered with the selective service system in accordance with 28930
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 28931
453, as amended or that the individual is exempt from registration 28932
for a reason other than that the individual is under eighteen 28933
years of age, the institution shall not require the individual to 28934
file any further statements. If it receives a statement certifying 28935
that the individual is not required to register because the 28936
individual is under eighteen years of age, the institution shall 28937
require the individual to file a new statement of selective 28938
service status each time the individual seeks to enroll for a new 28939
academic term or makes application for a new loan or loan 28940
guarantee or for any form of financial assistance for educational 28941
expenses, until it receives a statement certifying that the 28942
individual has registered with the selective service system or is 28943
exempt from registration for a reason other than that the 28944
individual is under eighteen years of age. 28945

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the~~ 28946

Revised Code <u>this chapter</u> :	28947
(A) "Educational television or radio" means television or radio programs which serve the educational needs of the community and which meet the requirements of the federal communications commission for noncommercial educational television or radio.	28948 28949 28950 28951
(B) "Educational telecommunications network" means a system of connected educational television, radio, or radio reading service facilities and coordinated programs established and operated or controlled by the Ohio educational telecommunications network commission, pursuant to sections 3353.01 to 3353.04 of the Revised Code.	28952 28953 28954 28955 28956 28957
(C) "Transmission" means the sending out of television, radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast.	28958 28959 28960 28961
(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio reading service programs.	28962 28963 28964
(E) "Interconnection facilities" means the equipment, material, and services used to link one location to another location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.	28965 28966 28967 28968
(F)(C) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to produce programs or lessons and to broadcast programs.	28969 28970 28971 28972
(G) "Production center" means a television, radio, or radio reading service production studio, staffed and equipped with equipment, material, and supplies necessary to produce a program or a lesson for broadcast or for recording on film, video tape, or audio tape.	28973 28974 28975 28976 28977

~~(H)~~(D) "Radio reading service" means a nonprofit organization 28978
that disseminates news and other information to blind and 28979
physically handicapped persons. 28980

Sec. 3353.06. (A) The affiliates services fund is hereby 28981
created in the state treasury. The agency designated by the 28982
governor to assume the functions of the Ohio educational 28983
telecommunications network commission shall deposit any money it 28984
receives to the credit of the fund, including: 28985

(1) Reimbursements for services provided to stations; 28986

(2) Charges levied for maintenance of telecommunications, 28987
broadcasting, or transmission equipment; 28988

(3) Contract or grant payments. 28989

(B) The ~~commission~~ agency shall use money credited to the 28990
affiliates services fund for any ~~commission~~ agency operating 28991
purposes, including: 28992

(1) The purchase, repair, or maintenance of 28993
telecommunications, broadcasting, or transmission equipment; 28994

(2) The purchase or lease of educational programming; 28995

(3) The purchase of tape and maintenance of a media library; 28996

(4) Professional development programs and services; 28997

(5) Administrative expenses and legal fees. 28998

Sec. 3353.07. (A) ~~As used in this section, "broadcasting~~ 28999
~~station" has the same meaning as in section 3353.01 of the Revised~~ 29000
~~Code.~~ 29001

~~(B)~~ Ohio government telecommunications shall be funded 29002
through the agency designated by the governor to assume the 29003
functions of the Ohio educational telecommunications network 29004
commission and shall be managed by a broadcasting station under a 29005

contract. The contract shall not take effect until the program 29006
committee of Ohio government telecommunications approves the 29007
contract. The broadcasting station shall manage the staff of Ohio 29008
government telecommunications. 29009

~~(C)~~(B)(1) There is hereby created the program committee of 29010
Ohio government telecommunications that shall consist of the 29011
president of the senate, speaker of the house of representatives, 29012
minority leader of the senate, and minority leader of the house of 29013
representatives, or their designees. By a vote of a majority of 29014
its members, the program committee may add additional members to 29015
the committee. 29016

(2) The program committee shall adopt rules that govern the 29017
operation of Ohio government telecommunications and the coverage 29018
and distribution of official governmental activities by Ohio 29019
government telecommunications. 29020

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the~~ 29021
~~Revised Code~~ this chapter: 29022

(A) "College" means any state-assisted college or university 29023
described in section 3333.041 of the Revised Code, any nonprofit 29024
institution holding a certificate of authorization pursuant to 29025
Chapter 1713. of the Revised Code, any private institution exempt 29026
from regulation under Chapter 3332. of the Revised Code as 29027
prescribed in section 3333.046 of the Revised Code, and any 29028
institution holding a certificate of registration from the state 29029
board of career colleges and schools and program authorization for 29030
an associate or bachelor's degree program issued under section 29031
3332.05 of the Revised Code. 29032

(B) "School district," except as specified in division (G) of 29033
this section, means any school district to which a student is 29034
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 29035
the Revised Code and does not include a joint vocational or 29036

cooperative education school district. 29037

(C) "Parent" has the same meaning as in section 3313.64 of 29038
the Revised Code. 29039

(D) "Participant" means a student enrolled in a college under 29040
the post-secondary enrollment options program established by this 29041
chapter. 29042

(E) "Secondary grade" means the ninth through twelfth grades. 29043

(F) "School foundation payments" means the amount required to 29044
be paid to a school district for a fiscal year under Chapter 3317. 29045
of the Revised Code. 29046

(G) "Tuition base" means, with respect to a participant's 29047
school district, the following: 29048

(1) In fiscal year 2006, the "tuition base" shall be the 29049
formula amount defined in ~~division (B) of~~ section 3317.02 of the 29050
Revised Code multiplied by the district's cost-of-doing-business 29051
factor defined in ~~division (N) of that~~ section 3317.02 of the 29052
~~Revised Code. The;~~ 29053

(2) In fiscal year 2007 and thereafter, the tuition base 29054
shall be the greater of the following: 29055

(a) The fiscal year 2006 formula amount defined in section 29056
3317.02 of the Revised Code multiplied by the district's fiscal 29057
year 2006 cost-of-doing-business factor as defined in that 29058
section; 29059

(b) The sum of the current formula amount defined in section 29060
3317.02 of the Revised Code plus the per pupil amount of the base 29061
funding supplements specified in divisions (B)(1) to (4) of 29062
section 3317.012 of the Revised Code. 29063

The participant's "school district" in the case of a 29064
participant enrolled in a community school shall be the school 29065
district in which the student is entitled to attend school under 29066

section 3313.64 or 3313.65 of the Revised Code. 29067

(H) "Educational program" means enrollment in one or more 29068
school districts, in a nonpublic school, or in a college under 29069
division (B) of section 3365.04 of the Revised Code. 29070

(I) "Nonpublic school" means a chartered or nonchartered 29071
school for which minimum standards are prescribed by the state 29072
board of education pursuant to division (D) of section 3301.07 of 29073
the Revised Code. 29074

(J) "School year" means the year beginning on the first day 29075
of July and ending on the thirtieth day of June. 29076

(K) "Community school" means any school established pursuant 29077
to Chapter 3314. of the Revised Code that includes secondary 29078
grades. 29079

(L) "Community school payments" means payments made by the 29080
department of education to a community school pursuant to division 29081
(D) of section 3314.08 of the Revised Code. 29082

Sec. 3365.02. There is hereby established the post-secondary 29083
enrollment options program under which a secondary grade student 29084
who is a resident of this state may enroll at a college, on a 29085
full- or part-time basis, and complete nonsectarian courses for 29086
high school and college credit. The purpose of the program is to 29087
provide enriched education opportunities to secondary grade 29088
students that are beyond the opportunities offered by the high 29089
school in which they are enrolled. 29090

Secondary grade students in a nonpublic school may 29091
participate in the post-secondary enrollment options program if 29092
the chief administrator of such school notifies the department of 29093
education by the first day of April prior to the school year in 29094
which the school's students will participate. Students in 29095
nonchartered nonpublic schools may participate only in the option 29096

prescribed in division (A) of section 3365.04 of the Revised Code. 29097

The state board of education, after consulting with the board 29098
of regents, shall adopt rules governing the program. The rules 29099
shall include: 29100

(A) Requirements for school districts, community schools, or 29101
participating nonpublic schools to provide information about the 29102
program prior to the first day of March of each year to all 29103
students enrolled in grades eight through eleven; 29104

(B) A requirement that a student or the student's parent 29105
inform the district board of education, the governing authority of 29106
a community school, or the nonpublic school administrator by the 29107
thirtieth day of March of the student's intent to participate in 29108
the program during the following school year. The rule shall 29109
provide that any student who fails to notify a district board, the 29110
governing authority of a community school, or the nonpublic school 29111
administrator by the required date may not participate in the 29112
program during the following school year without the written 29113
consent of the district superintendent, the governing authority of 29114
a community school, or the nonpublic school administrator. 29115

(C) Requirements that school districts and community schools 29116
provide counseling services to students in grades eight through 29117
eleven and to their parents before the students participate in the 29118
program under this chapter to ensure that students and parents are 29119
fully aware of the possible risks and consequences of 29120
participation. Counseling information shall include without 29121
limitation: 29122

(1) Program eligibility; 29123

(2) The process for granting academic credits; 29124

(3) Financial arrangements for tuition, books, materials, and 29125
fees; 29126

(4) Criteria for any transportation aid;	29127
(5) Available support services;	29128
(6) Scheduling;	29129
(7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;	29130 29131 29132 29133
(8) The effect of program participation on the student's ability to complete the district's, community school's, or nonpublic school's graduation requirements;	29134 29135 29136
(9) The academic and social responsibilities of students and parents under the program;	29137 29138
(10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.	29139 29140 29141
(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program;	29142 29143 29144 29145 29146
(E) The options required by section 3365.04 of the Revised Code;	29147 29148
(F) A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses;	29149 29150 29151 29152 29153 29154
<u>(G) A provision prohibiting participation in the option prescribed under division (B) of section 3365.04 of the Revised</u>	29155 29156

Code to students enrolled in physical education college courses; 29157

(H) A requirement that a student or the student's parent will 29158
reimburse the state for the amount of state funds paid to a 29159
college for a course in which the student is enrolled under this 29160
chapter if the student does not attain a passing final grade in 29161
that course. 29162

Sec. 3365.021. The chief administrator of any nonpublic 29163
school notifying the department of education that students of the 29164
school will participate in the post-secondary enrollment options 29165
program shall provide counseling to students in grades eight 29166
through eleven and to their parents before the students 29167
participate in the program to ensure that students and parents are 29168
fully aware of the possible risks and consequences of 29169
participation. ~~Such~~ The counseling shall include explaining the 29170
fact that funding may be limited ~~and~~, that not all students who 29171
wish to participate may be able to do so, and that participation 29172
by students enrolled in nonchartered nonpublic schools is limited 29173
to the option prescribed in division (A) of section 3365.04 of the 29174
Revised Code. 29175

Sec. 3365.04. The rules adopted under section 3365.02 of the 29176
Revised Code shall provide for students to enroll in courses under 29177
either of the following options: 29178

(A) The student may elect at the time of enrollment to 29179
receive only college credit for the course. The college shall 29180
notify the student about payment of tuition and fees in the 29181
customary manner followed by the college, and the student shall be 29182
responsible for payment of all tuition and the cost of all 29183
textbooks, materials, and fees associated with the course. If the 29184
student successfully completes the course, the college shall award 29185
the student full credit for the course, but the board of education 29186

or nonpublic participating school shall not award the high school credit. 29187
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(B) The student may elect at the time of enrollment for each course to receive both college credit and high school credit. 29189
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Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, the board of education or ~~nonpublic school~~ community school governing authority shall award the student high school credit, and the college shall be reimbursed in accordance with section 3365.07 of the Revised Code. 29191
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No student may participate in the option prescribed under division (B) of section 3365.04 of the Revised Code if the college course in which the student is enrolled is a physical education course, as determined by the superintendent of public instruction. 29197
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The option prescribed in division (B) of this section is not available to students enrolled in nonchartered nonpublic schools. 29201
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When determining a school district's formula ADM under section 3317.03 of the Revised Code, the time a participant is attending courses under division (A) of this section shall be considered as time the participant is not attending or enrolled in school anywhere, and the time a participant is attending courses under division (B) of this section shall be considered as time the participant is attending or enrolled in the district's schools. 29203
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Sec. 3365.07. (A) The rules adopted under section 3365.02 of the Revised Code shall specify a method for each of the following: 29210
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(1) Determining, with respect to any participant, the percentage of a full-time educational program constituted by the participant's total educational program. That percentage shall be the participant's full-time equivalency percentage for purposes of the computation required by division (B)(1) of this section. 29212
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(2) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in each of the following:

(a) Programs provided by the city, local, or exempted village school district, or a community school;

(b) Programs provided by a joint vocational school district;

(c) Programs provided by a college under division (B) of section 3365.04 of the Revised Code.

The sum of divisions (A)(2)(a) to (c) of this section shall equal one hundred per cent.

(3) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's enrollment that shall be deemed to be enrollment in a joint vocational school district and the percentage that shall be deemed to be enrollment in a city, local, or exempted village school district. The sum of such percentages shall equal one hundred per cent.

(4) In the case of a participant who is enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in programs provided by a college under division (B) of section 3365.04 of the Revised Code.

(B) Each July, the department of education shall pay each college for any participant enrolled in the college in the prior school year under division (B) of section 3365.04 of the Revised Code an amount computed as follows:

(1) Multiply the tuition base by the participant's full-time equivalency percentage and multiply the resulting amount by a percentage equal to the percentage of the participant's school day

apportioned to the college under division (A)(2)(c) or (4) of this section, as applicable. 29247
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(2) Pay the college the lesser of: 29249

(a) The amount computed under division (B)(1) of this section; 29250
29251

(b) The actual costs that would have been the responsibility of the participant had the participant elected to enroll under division (A) of section 3365.04 of the Revised Code, as verified by the department, of tuition, textbooks, materials, and fees directly related to any courses elected by the participant during the prior school year under division (B) of section 3365.04 of the Revised Code. 29252
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(C) The department shall not reimburse any college for any course taken by a participant under division (A) of section 3365.04 of the Revised Code. 29259
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(D) If the participant was not enrolled in a participating nonpublic school, the amount paid under division (B) of this section for each participant shall be subtracted from the school foundation payments made to the participant's school district or, if the participant was enrolled in a community school, from the community school payments made to the participant's school under section 3314.08 of the Revised Code. If the participant was enrolled in a joint vocational school district, a portion of the amount shall be subtracted from the payments to the joint vocational school district and a portion shall be subtracted from the payments to the participant's city, local, or exempted village school district. The amount of the payment subtracted from the city, local, or exempted village school district shall be computed as follows: 29262
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(1) Add the following: 29276

(a) The percentage of the participant's enrollment in the school district, determined under division (A)(3) of this section; and

(b) Twenty-five per cent times the percentage of the participant's enrollment in the joint vocational school district, determined under division (A)(3) of this section.

(2) Multiply the sum obtained under division (D)(1) of this section by the amount computed under division (B)(2) of this section.

The balance of the payment shall be subtracted from the joint vocational district's school foundation payments.

(E) If the participant was enrolled in a participating chartered nonpublic school, the amount paid under division (B) of this section shall be subtracted from moneys set aside by the general assembly for such purpose from funds appropriated for the purposes of section 3317.06 of the Revised Code.

(F) No payment of state funds shall be made under this chapter for either of the following:

(1) Any student enrolled in a nonchartered nonpublic school;

(2) Any college course that is a physical education course, as determined by the superintendent of public instruction.

Sec. 3365.10. As used in this section, the "base amount" for any school year is ~~one million dollars~~ the amount set aside by an appropriations act in accordance with division (E) of section 3365.07 of the Revised Code. "Full-time equivalency percentage" and "percentage of the school day" enrolled in college shall be determined under the rules described by divisions (A)(1) and (4) of section 3365.07 of the Revised Code.

This section applies only to students enrolled in chartered

nonpublic schools. 29306

(A) Each chartered nonpublic school student who wishes to 29307
become a participant in any school year shall send to the 29308
department of education a copy of ~~his~~ the student's acceptance 29309
from a college and an application. The application shall be made 29310
on forms provided by the state board and shall include information 29311
about the student's proposed participation, including the school 29312
year in which ~~he~~ the student wishes to participate; the semesters 29313
or terms the student wishes to enroll during such year; the 29314
student's expected full-time equivalency percentage for each such 29315
semester or term; and the percentage of the school day each such 29316
semester or term that the student expects to be enrolled in 29317
programs provided by a college under division (B) of section 29318
3365.04 of the Revised Code. The department shall mark each 29319
application with the date and time of receipt. 29320

(B) Calculations involving applications under this division 29321
shall be made in the order in which the applications are received. 29322

Upon receipt of an application under division (A) of this 29323
section, the department shall calculate the amount the college 29324
would be paid under division (B) of section 3365.07 of the Revised 29325
Code for the student's expected participation. The department 29326
shall subtract each such calculated amount from the base amount 29327
for that year, or the amount remaining for that year after the 29328
subtraction from the base amount of amounts previously calculated 29329
under this division as a result of prior applications for 29330
participation in that year, whichever is the lesser amount. 29331

(C) If such a subtraction under division (B) of this section 29332
results in a positive number, the department shall notify the 29333
applicant within three weeks of the receipt of ~~his~~ the application 29334
that ~~he~~ such applicant may participate in the post-secondary 29335
enrollment options program to the extent indicated in the 29336

application. 29337

(D) If such a subtraction under division (B) of this section 29338
results in a negative number, the department shall, within one 29339
week of the receipt of such application, notify the applicant, the 29340
applicant's chartered nonpublic school, and the college accepting 29341
the applicant that funds will not be available for the applicant's 29342
participation in the program during the year for which the 29343
application was made. The department shall also notify all 29344
applicants whose applications for that year are subsequently 29345
received, their chartered nonpublic schools, and the colleges 29346
accepting them of the same fact. 29347

(E) No applicant receiving notification under division (D) of 29348
this section may become a participant under division (B) of 29349
section 3365.04 of the Revised Code for the year for which ~~he~~ the 29350
applicant applied and no college shall be paid under division (B) 29351
of section 3365.07 of the Revised Code for participation by any 29352
such applicant in such year. 29353

Sec. 3365.11. If the superintendent of the school district or 29354
the chief administrator of the community school or nonpublic 29355
school in which the student is enrolled notifies the 29356
superintendent of public instruction that the student has not 29357
attained a passing final grade in a college course in which the 29358
student is enrolled under this chapter, the superintendent of 29359
public instruction shall initiate proceedings to seek 29360
reimbursement from the student or the student's parent for the 29361
amount of state funds calculated for payment to the college on 29362
behalf of the student for enrollment in that college course. In 29363
seeking reimbursement, the superintendent of public instruction 29364
may request that the attorney general bring a civil cause of 29365
action in the court of common pleas of the county in which the 29366
school district, community school, or nonpublic school is located, 29367

if the superintendent of public instruction determines it 29368
appropriate to bring such an action. 29369

Upon the collection of any funds from a student or student's 29370
parent under this section, the superintendent of public 29371
instruction shall credit the amount collected to the school 29372
district or community school from which an amount was deducted 29373
under division (D) of section 3365.07 of the Revised Code for the 29374
course or, if the student is enrolled in a nonpublic school, to 29375
the general revenue fund. 29376

Sec. 3375.40. Each board of library trustees appointed 29377
pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, 29378
or 3375.30 of the Revised Code may do the following: 29379

(A) Hold title to and have the custody of all real and 29380
personal property of the free public library under its 29381
jurisdiction; 29382

(B) Expend for library purposes, and in the exercise of the 29383
power enumerated in this section, all moneys, whether derived from 29384
the county library and local government support fund or otherwise, 29385
credited to the free public library under its jurisdiction and 29386
generally do all things it considers necessary for the 29387
establishment, maintenance, and improvement of the free public 29388
library under its jurisdiction; 29389

(C) Purchase, lease, construct, remodel, renovate, or 29390
otherwise improve, equip, and furnish buildings or parts of 29391
buildings and other real property, and purchase, lease, or 29392
otherwise acquire motor vehicles and other personal property, 29393
necessary for the proper maintenance and operation of the free 29394
public library under its jurisdiction, and pay their costs in 29395
installments or otherwise. Financing of these costs may be 29396
provided through the issuance of notes, through an installment 29397

sale, or through a lease-purchase agreement. Any such notes shall 29398
be issued pursuant to section 3375.404 of the Revised Code. 29399

(D) Purchase, lease, lease with an option to purchase, or 29400
erect buildings or parts of buildings to be used as main 29401
libraries, branch libraries, or library stations pursuant to 29402
section 3375.41 of the Revised Code; 29403

(E) Establish and maintain a main library, branches, library 29404
stations, and traveling library service within the territorial 29405
boundaries of the political subdivision or district over which it 29406
has jurisdiction of free public library service; 29407

(F) Except as otherwise provided in this division, establish 29408
and maintain branches, library stations, and traveling library 29409
service in any school district, outside the territorial boundaries 29410
of the political subdivision or district over which it has 29411
jurisdiction of free public library service, upon application to 29412
and approval of the state library board, pursuant to section 29413
3375.05 of the Revised Code. The board of library trustees of any 29414
free public library maintaining branches, stations, or traveling 29415
library service, outside the territorial boundaries of the 29416
political subdivision or district over which it has jurisdiction 29417
of free public library service, on September 4, 1947, may continue 29418
to maintain and operate those branches, those stations, and that 29419
traveling library service without the approval of the state 29420
library board. 29421

(G) Appoint and fix the compensation of all of the employees 29422
of the free public library under its jurisdiction, pay the 29423
reasonable cost of tuition for any of its employees who enroll in 29424
a course of study the board considers essential to the duties of 29425
the employee or to the improvement of the employee's performance, 29426
and reimburse applicants for employment for any reasonable 29427
expenses they incur by appearing for a personal interview; 29428

(H) Make and publish rules for the proper operation and management of the free public library and facilities under its jurisdiction, including rules pertaining to the provision of library services to individuals, corporations, or institutions that are not inhabitants of the county;

(I) Assess uniform fees for the provision of services to patrons of the library, but no fee shall be assessed for the circulation of printed materials held by the library except for the assessment of fines for materials not returned in accordance with the board's rules;

(J) Establish and maintain a museum in connection with and as an adjunct to the free public library under its jurisdiction;

~~(J)~~(K) By the adoption of a resolution, accept any bequest, gift, or endowment upon the conditions connected with the bequest, gift, or endowment. No such bequest, gift, or endowment shall be accepted by the board if its conditions remove any portion of the free public library under the board's jurisdiction from the control of the board or if the conditions, in any manner, limit the free use of the library or any part of it by the residents of the counties in which the library is located.

~~(K)~~(L) At the end of any fiscal year, by a two-thirds vote of its full membership, set aside any unencumbered surplus remaining in the general fund of the free public library under its jurisdiction for any purpose, including creating or increasing a special building and repair fund, or for operating the library or acquiring equipment and supplies;

~~(L)~~(M) Procure and pay all or part of the cost of group term life, hospitalization, surgical, major medical, disability benefit, dental care, eye care, hearing aids, or prescription drug insurance or coverage, or a combination of any of those types of insurance or coverage, whether issued by an insurance company or a

health insuring corporation duly licensed by the state, covering 29460
its employees, and, in the case of group term life, 29461
hospitalization, surgical, major medical, dental care, eye care, 29462
hearing aids, or prescription drug insurance or coverage, also 29463
covering the dependents and spouses of its employees, and, in the 29464
case of disability benefits, also covering the spouses of its 29465
employees. 29466

~~(M)~~(N) Pay reasonable dues and expenses for the free public 29467
library and library trustees in library associations. 29468

Any instrument by which real property is acquired pursuant to 29469
this section shall identify the agency of the state that has the 29470
use and benefit of the real property as specified in section 29471
5301.012 of the Revised Code. 29472

~~Section Sec. 3375.48. The judges of the court of common pleas~~ 29473
~~of any county in which there is a~~ A law library association which 29474
~~furnishes that receives fines and penalties, and moneys arising~~ 29475
~~from forfeited bail, under sections 3375.50 to 3375.53 of the~~ 29476
~~Revised Code shall furnish~~ to all of the members of the ~~Ohio~~ 29477
general assembly, the ~~county~~ officers of the county in which the 29478
association is located, and the judges of the ~~several~~ courts in 29479
~~the~~ that county admission to ~~its~~ the associations's law library 29480
and the use of its books, materials, and equipment free of charge, 29481
~~upon the appointment by the. The association's board of trustees~~ 29482
~~of such association of~~ may appoint a person to act as librarian 29483
~~thereof, or of a person to act as librarian and not more than two~~ 29484
additional persons to act as assistant ~~law~~ librarians ~~thereof, of~~ 29485
the law library. The board shall ~~fix~~ be responsible for fixing and 29486
paying the compensation of ~~such~~ those persons, ~~which shall be paid~~ 29487
~~from the county treasury~~ subject to section 3375.49 of the Revised 29488
Code. 29489

Sec. 3375.49. For (A) Subject to divisions (B) and (C) of 29490
this section, for the use of the law library referred to in 29491
section 3375.48 of the Revised Code, the board of county 29492
commissioners shall provide, at the expense of the county, 29493
suitable rooms with sufficient and suitable bookcases space in the 29494
county courthouse or, if there are no suitable rooms in the 29495
courthouse, any other suitable rooms at in any other building 29496
located in the county seat with sufficient, and suitable bookcases 29497
utilities for that space. The 29498

(B)(1) Subject to division (C) of this section, through 29499
calendar year 2006, the board of county commissioners shall be 29500
responsible for paying the compensation of the librarian and up to 29501
two assistant librarians of the law library appointed by the board 29502
of trustees of the law library association under section 3375.48 29503
of the Revised Code and the costs of the space in the county 29504
courthouse or other building that the board provides for the use 29505
of the law library under division (A) of this section, the 29506
utilities for that space, and furniture and fixtures for the law 29507
library. 29508

(2) In calendar years 2007 through 2010, the board of county 29509
commissioners and the board of trustees shall be responsible for 29510
paying the compensation of the librarian and up to two assistant 29511
librarians appointed under section 3375.48 of the Revised Code and 29512
the costs of the space in the county courthouse or other building 29513
that the board of county commissioners provides for the use of the 29514
law library under division (A) of this section, the utilities for 29515
that space, and furniture and fixtures for the law library as 29516
follows: 29517

(a) In calendar year 2007, the board of county commissioners 29518
shall pay eighty per cent, and the board of trustees shall pay 29519
twenty per cent. 29520

(b) In calendar year 2008, the board of county commissioners shall pay sixty per cent, and the board of trustees shall pay forty per cent. 29521
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(c) In calendar year 2009, the board of county commissioners shall pay forty per cent, and the board of trustees shall pay sixty per cent. 29524
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(d) In calendar year 2010, the board of county commissioners shall pay twenty per cent, and the board of trustees shall pay eighty per cent. 29527
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(3) Beginning in calendar year 2011 and thereafter, the board of trustees shall be responsible for paying the compensation of the librarian and all assistant librarians appointed under section 3375.48 of the Revised Code as well as the costs of the space in the county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and the law library's furniture and fixtures. 29530
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(C) If the board of trustees of a law library association referred to in section 3375.48 of the Revised Code rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners of the county in which the association is located has no further obligation under division (A) of this section to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation under division (B) of this section to make payments for the compensation of the librarian and up to two assistant librarians of the law library appointed under section 3375.48 of the Revised Code and for the costs of space in 29538
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the county courthouse or an other building for the use of the law 29552
library, the utilities for that space, and the law library's 29553
furniture and fixtures. 29554

(D) The librarian ~~or person in charge~~ of the law library 29555
shall receive and safely keep in ~~these rooms~~ the law library the 29556
law reports and other books furnished by the state for use of the 29557
court and bar. ~~The board of county commissioners shall heat and~~ 29558
~~light any such rooms. The~~ 29559

(E) The books, computer communications console that is a 29560
means of access to a system of computerized legal research, 29561
microform materials and equipment, videotape materials and 29562
equipment, audio or visual materials and equipment, other 29563
materials and equipment utilized in conducting legal research, ~~and~~ 29564
furniture, and fixtures of the law library association that are 29565
owned by, and used exclusively in, the law library are exempt from 29566
taxation. 29567

Sec. 3375.54. The money that is paid to the board of trustees 29568
of a law library association under sections 3375.50 to 3375.53 of 29569
the Revised Code shall be expended in the support and operation of 29570
the law library association ~~and~~; in the purchase, lease, or rental 29571
of lawbooks, a computer communications console that is a means of 29572
access to a system of computerized legal research, microform 29573
materials and equipment, videotape materials and equipment, audio 29574
or visual materials and equipment, ~~and other services, materials,~~ 29575
~~and equipment that provide legal information or facilitate~~ 29576
utilized in conducting legal research, furniture, and fixtures 29577
used in the association's law library; and to pay the compensation 29578
of any librarian and assistant librarians of the law library 29579
appointed under section 3375.48 of the Revised Code. 29580

Sec. 3375.55. ~~Judges of the county court in the county and~~ 29581

~~officers~~ Officers of the townships and municipal corporations 29582
therein in a county in which a law library association that 29583
receives fines and penalties, and moneys arising from forfeited 29584
bail, under sections 3375.50 to 3375.53 of the Revised Code is 29585
located shall have the same free use of the books, materials, and 29586
equipment of the association's law library ~~receiving moneys under~~ 29587
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code,~~ as 29588
general assembly members and the judges and county officers 29589
mentioned in section 3375.48 of the Revised Code. 29590

Sec. 3377.03. The Ohio higher educational facility commission 29591
shall be comprised of nine members, one of whom shall be the 29592
chancellor of the Ohio board of regents or ~~his~~ the chancellor's 29593
designee. The remaining members shall be appointed by the governor 29594
with the advice and consent of the senate. ~~Of the members first~~ 29595
~~appointed, one shall serve for a term ending on the first Monday~~ 29596
~~in January, 1970; one for a term ending on the first Monday in~~ 29597
~~January, 1971; one for a term ending on the first Monday in~~ 29598
~~January, 1972; one for a term ending on the first Monday in~~ 29599
~~January, 1973; one for a term ending on the first Monday in~~ 29600
~~January, 1974; one for a term ending on the first Monday in~~ 29601
~~January, 1975; one for a term ending on the first Monday in~~ 29602
~~January, 1976; and one for a term ending on the first Monday in~~ 29603
~~January, 1977.~~ Each ~~succeeding~~ term of office shall be for eight 29604
years, commencing on the second day of January and ending on the 29605
first day of January, ~~except that upon expiration of the term~~ 29606
~~ending January 7, 1974, the new term which succeeds it shall~~ 29607
~~commence on January 8, 1974, and end on January 1, 1982; upon~~ 29608
~~expiration of the term ending January 6, 1975, the new term which~~ 29609
~~succeeds it shall commence on January 7, 1975, and end on January~~ 29610
~~1, 1983; upon expiration of the term ending January 5, 1976, the~~ 29611
~~new term which succeeds it shall commence on January 6, 1976, and~~ 29612
~~end on January 1, 1984; upon expiration of the term ending January~~ 29613

3, 1977, the new term which succeeds it shall commence on January 29614
4, 1977, and end on January 1, 1985; upon expiration of the term 29615
ending January 5, 1978, the new term which succeeds it shall 29616
commence on January 6, 1978, and end on January 1, 1986; upon 29617
expiration of the term ending January 4, 1979, the new term which 29618
succeeds it shall commence on January 5, 1979, and end on January 29619
1, 1987; and upon expiration of the term ending January 3, 1980, 29620
the new term which succeeds it shall commence on January 4, 1980, 29621
and end on January 1, 1988. Each member shall hold office from the 29622
date of ~~his~~ appointment until the end of the term for which ~~he was~~ 29623
appointed. Vacancies shall be filled by gubernatorial appointment. 29624
Any member appointed to fill a vacancy occurring prior to the 29625
expiration of the term for which ~~his~~ the member's predecessor was 29626
appointed shall hold office for the remainder of such term. Any 29627
member shall continue in office subsequent to the expiration date 29628
of ~~his~~ the member's term until ~~his~~ the member's successor takes 29629
office, or until a period of sixty days has elapsed, whichever 29630
occurs first. 29631

The governor shall designate the ~~chairman~~ chairperson of the 29632
commission. The commission shall elect from its own members each 29633
year, a ~~vice-chairman~~ vice-chairperson and such other officers as 29634
it deems necessary. Members of the commission shall receive no 29635
compensation for their services but shall be reimbursed for their 29636
necessary and actual expenses actually incurred in the conduct of 29637
the commission's business. 29638

The commission shall provide for the holding of regular and 29639
special meetings. A majority of the commissioners shall constitute 29640
a quorum for the transaction of any business and the approval of a 29641
majority of the members is necessary to undertake any act of the 29642
commission. The meetings are subject to section 121.22 of the 29643
Revised Code, except that one or more members may be present at a 29644
meeting by interactive video teleconference or teleconference if 29645

public attendance is allowed at the meeting's location. In that 29646
case, members present at a meeting by interactive video 29647
teleconference or teleconference may be considered present for 29648
determining whether a quorum exists and may vote, notwithstanding 29649
the requirement of division (C) of that section that members be 29650
present in person for those purposes. 29651

The commission shall adopt rules for the conduct of business, 29652
may appoint such officers and employees as necessary, and may fix 29653
their compensation and prescribe their duties. All expenses 29654
incurred in carrying out Chapter 3377. of the Revised Code are 29655
payable solely from funds of the commission available therefor, 29656
and no liability or obligation shall be incurred by the commission 29657
beyond the extent to which such funds are available. 29658

Within ninety days after the close of each fiscal year, the 29659
commission shall make a report of its activities for the preceding 29660
fiscal year to the governor. Such report shall be filed with the 29661
clerk of each house of the general assembly. 29662

Sec. 3379.04. The Ohio arts council may do any of the 29663
following: 29664

(A) Within the limits of available funds, employ and fix the 29665
compensation of a staff director and ~~such~~ other personnel ~~as will~~ 29666
to facilitate the work of the council, provided that the 29667
compensation shall not exceed the annual salary of the governor 29668
specified in section 141.011 of the Revised Code. The staff 29669
director shall serve at the pleasure of the council, and other 29670
employees shall serve at the pleasure of the staff director. 29671

(B) Establish and appoint members to advisory committees to 29672
advise and assist it in the performance of its functions, and ~~it~~ 29673
~~may~~, within the limits of available funds, contract with ~~such~~ 29674
consultants ~~as may~~ to facilitate its work. 29675

(C) Adopt such rules as are necessary for <u>the</u> administration	29676
of Chapter 3379. of the Revised Code. <u>this chapter;</u>	29677
(D) Award and administer grants to carry out the purposes of	29678
this chapter.	29679
Sec. 3381.07. Upon the creation of a regional arts and	29680
cultural district under section 3381.03 or 3381.04 of the Revised	29681
Code and upon the qualifying of its board of trustees and the	29682
election of a president and a vice-president, the district shall	29683
exercise in its own name all the rights, powers, and duties vested	29684
in and conferred upon it by this chapter. A regional arts and	29685
cultural district:	29686
(A) May sue or be sued in its corporate name;	29687
(B) May make contracts in the exercise of the rights, powers,	29688
and duties conferred upon it;	29689
(C) May adopt and alter a seal and use such seal by causing	29690
it to be impressed, affixed, reproduced, or otherwise used, but	29691
failure to affix the seal shall not affect the validity of any	29692
instrument;	29693
(D) May make, adopt, amend, and repeal bylaws for the	29694
administration of its affairs and rules for the administration and	29695
operation of any artistic or cultural facilities under its control	29696
and for the exercise of all of its rights of ownership therein	29697
provided, however, that it may not be directly involved in any	29698
programmatic activities;	29699
(E) May make grants, on such terms and conditions as it may	29700
deem advisable, to any arts or cultural organization within its	29701
district as provided in section 3381.17 of the Revised Code;	29702
(F) May fix, alter, and collect rentals and other charges for	29703
the use of any artistic or cultural facilities under its control	29704
to be determined exclusively by it for the purpose of providing	29705

for the payment of the expenses of the district, the acquisition, 29706
construction, equipping, improvement, extension, repair, 29707
maintenance, renovation, enlargement, administration, and 29708
operation of artistic or cultural facilities under its control, 29709
the payment of principal and interest on its obligations, and to 29710
fulfill the terms of any agreements made with the purchasers or 29711
holders of any such obligations, or with any person or political 29712
subdivision; 29713

(G) Shall have jurisdiction, control, possession, and 29714
supervision over the use and disposition of all property, rights, 29715
licenses, moneys, contracts, accounts, liens, books, records, or 29716
other property rights and interests conveyed, delivered, 29717
transferred, or assigned to it; 29718

(H) May acquire, construct, improve, extend, repair, remodel, 29719
renovate, furnish, equip, enlarge, lease, or maintain artistic or 29720
cultural facilities within its territory as it considers necessary 29721
to accomplish the purposes of this chapter, and make charges for 29722
the use of artistic or cultural facilities; 29723

(I) May levy and collect taxes as provided in section 3381.16 29724
and in sections 5743.022 and 5743.321 of the Revised Code; 29725

(J) May issue bonds secured by its general credit as provided 29726
in section 3381.08 of the Revised Code; 29727

(K) May hold, encumber, control, acquire by donation, 29728
purchase, construct, own, lease as lessee or lessor, use, and sell 29729
real and personal property, or any interest or right therein, 29730
within or without its territory; 29731

(L) May employ or retain and fix the compensation of such 29732
employees, ~~agent~~ agents, accountants, attorneys, and consultants 29733
or advisors as may be necessary or desirable for the 29734
accomplishment of its purposes; 29735

(M) May procure insurance against loss to it by reason of 29736
damages to its properties resulting from fire, theft, accident, or 29737
other casualties or by reason of its liability for any damages to 29738
persons or property; 29739

(N) May maintain such funds as it determines necessary or 29740
desirable for the efficient performance of its duties; 29741

(O) May procure a policy or policies insuring members of its 29742
board of trustees, its officers, employees, and agents against 29743
liability on account of damages or injury to persons and property 29744
resulting from any act or omission of such person in ~~his~~ the 29745
person's official capacity or resulting solely out of ~~his~~ the 29746
person's service to such district; 29747

(P) May receive and expend gifts, grants, bequests, or 29748
devices, or grants including, but not limited to, grants of public 29749
funds. 29750

Sec. 3381.17. From the funds available therefor from a tax 29751
levy authorized under section 3381.16 or sections 5743.022 and 29752
5743.321 of the Revised Code, a regional arts and cultural 29753
district by action of its board of trustees shall make annual 29754
grants to support the operating or capital expenses of such of the 29755
arts or cultural organizations located within the territory of the 29756
district as the board of trustees shall determine; provided, 29757
however, that not more than ten per cent of the amount granted in 29758
any calendar year shall be granted to arts and cultural 29759
organizations that are not qualifying arts or cultural 29760
organizations; and further provided that prior to making any 29761
grants in any calendar year, the board of trustees shall afford an 29762
opportunity for the presentation, either in person or in writing, 29763
of the suggestions of any area arts council, as defined in section 29764
757.03 of the Revised Code, located within the district. Any such 29765
grant to an arts or cultural organization shall be on such terms 29766

and conditions as the board considers advisable. 29767

Sec. 3383.02. (A) There is hereby created the Ohio cultural 29768
facilities commission. The commission shall engage in and provide 29769
for the development, performance, and presentation or making 29770
available of culture and professional sports and athletics to the 29771
public in this state, and the provision of training or education 29772
in culture, by the exercise of its powers under this chapter, 29773
including the provision, operation, management, and cooperative 29774
use of Ohio cultural facilities and Ohio sports facilities. The 29775
commission is a body corporate and politic, an agency of state 29776
government and an instrumentality of the state, performing 29777
essential governmental functions of this state. The carrying out 29778
of the purposes and the exercise by the commission of its powers 29779
conferred by this chapter are essential public functions and 29780
public purposes of the state and of state government. The 29781
commission may, in its own name, sue and be sued, enter into 29782
contracts, and perform all the powers and duties given to it by 29783
this chapter; however, it does not have and shall not exercise the 29784
power of eminent domain. 29785

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ 29786
nine of whom shall be voting members and three of whom shall be 29787
nonvoting members. The ~~seven~~ nine voting members shall be 29788
appointed by the governor, with the advice and consent of the 29789
senate, from different geographical regions of the state. In 29790
addition, one of the voting members shall represent the state 29791
architect. Not more than ~~four~~ five of the members appointed by the 29792
governor shall be affiliated with the same political party. The 29793
nonvoting members shall be the staff director of the Ohio arts 29794
council, a member of the senate appointed by the president of the 29795
senate, and a member of the house of representatives appointed by 29796
the speaker of the house. 29797

(C) Of the five initial appointments made by the governor, 29798
one shall be for a term expiring December 31, 1989, two shall be 29799
for terms expiring December 31, 1990, and two shall be for terms 29800
expiring December 31, 1991. Of the initial appointments of the 29801
sixth and seventh voting members made by the governor, one shall 29802
be for a term expiring December 31, 2003, and one shall be for a 29803
term expiring December 31, 2004. Of the initial appointments of 29804
the eighth and ninth voting members made by the governor, one 29805
shall be for a term expiring December 31, 2007, and one shall be 29806
for a term expiring December 31, 2008. These voting members shall 29807
be appointed within sixty days after the effective date of this 29808
amendment. Thereafter, each such term shall be for three years, 29809
commencing on the first day of January and ending on the 29810
thirty-first day of December. Each appointment by the president of 29811
the senate and by the speaker of the house of representatives 29812
shall be for the balance of the then legislative biennium. Each 29813
member shall hold office from the date of the member's appointment 29814
until the end of the term for which the member was appointed. Any 29815
member appointed to fill a vacancy occurring prior to the 29816
expiration of the term for which the member's predecessor was 29817
appointed shall hold office for the remainder of such term. Any 29818
member shall continue in office subsequent to the expiration date 29819
of the member's term until the member's successor takes office, or 29820
until a period of sixty days has elapsed, whichever occurs first. 29821

(D) Members of the commission shall serve without 29822
compensation. 29823

(E) Organizational meetings of the commission shall be held 29824
at the first meeting of each calendar year. At each organizational 29825
meeting, the commission shall elect from among its voting members 29826
a chairperson, a vice-chairperson, and a secretary-treasurer, who 29827
shall serve until the next annual meeting. The commission shall 29828
adopt rules pursuant to section 111.15 of the Revised Code for the 29829

conduct of its internal business and shall keep a journal of its proceedings. 29830
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(F) ~~Four~~ Five voting members of the commission constitute a quorum, and the affirmative vote of ~~four~~ five members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code. 29832
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(G) All expenses incurred in carrying out this chapter are payable solely from money accrued under this chapter or appropriated for these purposes by the general assembly, and the commission shall incur no liability or obligation beyond such money. 29840
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(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees. 29845
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(I) There is hereby established in the state treasury the Ohio cultural facilities commission administration fund. All revenues of the commission shall be credited to that fund and to any accounts created in ~~the~~ that fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the commission, shall be paid from ~~the Ohio cultural facilities commission administration~~ that fund as determined by or pursuant to directions of the commission. All investment earnings of ~~the administration~~ that fund shall be credited to ~~the fund~~ it and 29850
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shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3501.141. (A) The board of elections of any county may contract, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for the full-time employees of such board and their immediate dependents, whether issued by an insurance company or a health insuring corporation, duly authorized to do business in this state. The authority granted under this division applies only when the board of county commissioners, by resolution, denies coverage described in this division to full-time employees of the board of elections.

(B) The board of elections of any county, with the approval of the board of county commissioners, may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for the members appointed to the board of elections under section 3501.06 of the Revised Code and their immediate dependents when each

member's term begins, whether issued by an insurance company or a 29892
health insuring corporation, duly authorized to do business in 29893
this state. 29894

Sec. 3501.17. (A) The expenses of the board of elections 29895
shall be paid from the county treasury, in pursuance of 29896
appropriations by the board of county commissioners, in the same 29897
manner as other county expenses are paid. ~~If the board of county 29898
commissioners fails to appropriate an amount sufficient to provide 29899
for the necessary and proper expenses of the board of elections, 29900
such board may apply to the court of common pleas within the 29901
county, which shall fix the amount necessary to be appropriated 29902
and such amount shall be appropriated.~~ Payments shall be made upon 29903
vouchers of the board of elections certified to by its chairperson 29904
or acting chairperson and the director or deputy director, upon 29905
warrants of the county auditor. The board of elections shall not 29906
incur any obligation involving the expenditure of money unless 29907
there are moneys sufficient in the funds appropriated therefor to 29908
meet such obligations pursuant to division (D) of section 5705.41 29909
of the Revised Code, and the board may transfer funds only as 29910
provided under sections 5705.14 to 5705.16 of the Revised Code. 29911
Such expenses shall be apportioned among the county and the 29912
various subdivisions as provided in this section, and the amount 29913
chargeable to each subdivision shall be withheld by the auditor 29914
from the moneys payable thereto at the time of the next tax 29915
settlement. At the time of submitting budget estimates in each 29916
year, the board of elections shall submit to the taxing authority 29917
of each subdivision, upon the request of the subdivision, an 29918
estimate of the amount to be withheld therefrom during the next 29919
fiscal year. 29920

(B) Except as otherwise provided in division (F) of this 29921
section, the entire compensation of the members of the board of 29922
elections and of the director, deputy director, and other 29923

employees in the board's offices; the expenditures for the rental, 29924
furnishing, and equipping of the office of the board and for the 29925
necessary office supplies for the use of the board; the 29926
expenditures for the acquisition, repair, care, and custody of the 29927
polling places, booths, guardrails, and other equipment for 29928
polling places; the cost of pollbooks, tally sheets, maps, flags, 29929
ballot boxes, and all other permanent records and equipment; the 29930
cost of all elections held in and for the state and county; and 29931
all other expenses of the board which are not chargeable to a 29932
political subdivision in accordance with this section shall be 29933
paid in the same manner as other county expenses are paid. 29934

(C) The compensation of judges and clerks of elections; the 29935
cost of renting, moving, heating, and lighting polling places and 29936
of placing and removing ballot boxes and other fixtures and 29937
equipment thereof; the cost of printing and delivering ballots, 29938
cards of instructions, and other election supplies; and all other 29939
expenses of conducting primaries and elections in the odd-numbered 29940
years shall be charged to the subdivisions in and for which such 29941
primaries or elections are held. The charge for each primary or 29942
general election in odd-numbered years for each subdivision shall 29943
be determined in the following manner: first, the total cost of 29944
all chargeable items used in conducting such elections shall be 29945
ascertained; second, the total charge shall be divided by the 29946
number of precincts participating in such election, in order to 29947
fix the cost per precinct; third, the cost per precinct shall be 29948
prorated by the board of elections to the subdivisions conducting 29949
elections for the nomination or election of offices in such 29950
precinct; fourth, the total cost for each subdivision shall be 29951
determined by adding the charges prorated to it in each precinct 29952
within the subdivision. 29953

(D) The entire cost of special elections held on a day other 29954
than the day of a primary or general election, both in 29955

odd-numbered or in even-numbered years, shall be charged to the 29956
subdivision. Where a special election is held on the same day as a 29957
primary or general election in an even-numbered year, the 29958
subdivision submitting the special election shall be charged only 29959
for the cost of ballots and advertising. Where a special election 29960
is held on the same day as a primary or general election in an 29961
odd-numbered year, the subdivision submitting the special election 29962
shall be charged for the cost of ballots and advertising for such 29963
special election, in addition to the charges prorated to such 29964
subdivision for the election or nomination of candidates in each 29965
precinct within the subdivision, as set forth in the preceding 29966
paragraph. 29967

(E) Where a special election is held on the day specified by 29968
division (E) of section 3501.01 of the Revised Code for the 29969
holding of a primary election, for the purpose of submitting to 29970
the voters of the state constitutional amendments proposed by the 29971
general assembly, and a subdivision conducts a special election on 29972
the same day, the entire cost of the special election shall be 29973
divided proportionally between the state and the subdivision based 29974
upon a ratio determined by the number of issues placed on the 29975
ballot by each, except as otherwise provided in division (G) of 29976
this section. Such proportional division of cost shall be made 29977
only to the extent funds are available for such purpose from 29978
amounts appropriated by the general assembly to the secretary of 29979
state. If a primary election is also being conducted in the 29980
subdivision, the costs shall be apportioned as otherwise provided 29981
in this section. 29982

(F) When a precinct is open during a general, primary, or 29983
special election solely for the purpose of submitting to the 29984
voters a statewide ballot issue, the state shall bear the entire 29985
cost of the election in that precinct and shall reimburse the 29986
county for all expenses incurred in opening the precinct. 29987

(G) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law and shall reimburse the counties for all expenses they incur for such advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) As used in this section, "statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements consistent with division (B) of this section for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section

3701.023 of the Revised Code and payment for those services under	30018
division (E) of that section;	30019
(5) Standards for the provision of service coordination by	30020
the department of health and city and general health districts;	30021
(6) Procedures for the department to use to determine the	30022
amount to be paid annually by each county for services for	30023
medically handicapped children and to allow counties to retain	30024
funds under divisions (A)(2) and (3) of section 3701.024 of the	30025
Revised Code;	30026
(7) Financial eligibility requirements for services for Ohio	30027
residents twenty-one years of age or older who have cystic	30028
fibrosis;	30029
(8) Criteria for payment of approved providers who provide	30030
services for medically handicapped children;	30031
(9) Criteria for the department to use in determining whether	30032
the payment of health insurance premiums of participants in the	30033
program for medically handicapped children is cost-effective;	30034
(10) Procedures for appeal of denials of applications under	30035
divisions (A) and (D) of section 3701.023 of the Revised Code,	30036
disqualification of providers, and amounts paid for services;	30037
(11) Terms of appointment for members of the medically	30038
handicapped children's medical advisory council created in section	30039
3701.025 of the Revised Code;	30040
(12) Eligibility requirements for the hemophilia program,	30041
including income and hardship requirements.	30042
<u>(B)(1) Except as provided in division (B)(2) of this section,</u>	30043
<u>an individual who is eligible for the medicaid program established</u>	30044
<u>under Chapter 5111. of the Revised Code is ineligible for the</u>	30045
<u>program for medically handicapped children.</u>	30046
<u>(2) An individual eligible for medicaid under the spend-down</u>	30047

provision provided by 42 C.F.R. 435.121(e)(4) as a result of costs 30048
incurred on the individual's behalf under the program for 30049
medically handicapped children is eligible for the program for 30050
medically handicapped children if the cost to the state to enable 30051
the individual to be eligible for both medicaid and the program 30052
for medically handicapped children is less than the cost to the 30053
state of providing services to the individual under the program 30054
for medically handicapped children alone. 30055

(C) The department of health shall develop a manual of 30056
operational procedures and guidelines for the program for 30057
medically handicapped children to implement sections 3701.021 to 30058
3701.0210 of the Revised Code. 30059

Sec. 3701.023. (A) The department of health shall review 30060
applications for eligibility for the program for medically 30061
handicapped children that are submitted to the department by city 30062
and general health districts and physician providers approved in 30063
accordance with division (C) of this section. The department shall 30064
determine whether the applicants meet the medical and financial 30065
eligibility requirements established by the public health council 30066
pursuant to division (A)(1) of section 3701.021 of the Revised 30067
Code, and by the department in the manual of operational 30068
procedures and guidelines for the program for medically 30069
handicapped children developed pursuant to division (B) of that 30070
section. Referrals of potentially eligible children for the 30071
program may be submitted to the department on behalf of the child 30072
by parents, guardians, public health nurses, or any other 30073
interested person. The department of health may designate other 30074
agencies to refer applicants to the department of health. 30075

(B) In accordance with the procedures established in rules 30076
adopted under division (A)(4) of section 3701.021 of the Revised 30077
Code, the department of health shall authorize a provider or 30078

providers to provide to any Ohio resident under twenty-one years 30079
of age, without charge to the resident or the resident's family 30080
and without restriction as to the economic status of the resident 30081
or the resident's family, diagnostic services necessary to 30082
determine whether the resident ~~suffers from~~ has a medically 30083
handicapping or potentially medically handicapping condition. 30084

(C) The department of health shall review the applications of 30085
health professionals, hospitals, medical equipment suppliers, and 30086
other individuals, groups, or agencies that apply to become 30087
providers. The department shall enter into a written agreement 30088
with each applicant who is determined, pursuant to the 30089
requirements set forth in rules adopted under division (A)(2) of 30090
section 3701.021 of the Revised Code, to be eligible to be a 30091
provider in accordance with the provider agreement required by the 30092
medical assistance program established under section 5111.01 of 30093
the Revised Code. No provider shall charge a medically handicapped 30094
child or the child's parent or guardian for services authorized by 30095
the department under division (B) or (D) of this section. 30096

The department, in accordance with rules adopted under 30097
division (A)(3) of section 3701.021 of the Revised Code, may 30098
disqualify any provider from further participation in the program 30099
for violating any requirement set forth in rules adopted under 30100
division (A)(2) of that section. The disqualification shall not 30101
take effect until a written notice, specifying the requirement 30102
violated and describing the nature of the violation, has been 30103
delivered to the provider and the department has afforded the 30104
provider an opportunity to appeal the disqualification under 30105
division (H) of this section. 30106

(D) The department of health shall evaluate applications from 30107
city and general health districts and approved physician providers 30108
for authorization to provide treatment services, service 30109
coordination, and related goods to children determined to be 30110

eligible for the program for medically handicapped children 30111
pursuant to division (A) of this section. The department shall 30112
authorize necessary treatment services, service coordination, and 30113
related goods for each eligible child in accordance with an 30114
individual plan of treatment for the child. As an alternative, the 30115
department may authorize payment of health insurance premiums on 30116
behalf of eligible children when the department determines, in 30117
accordance with criteria set forth in rules adopted under division 30118
(A)(9) of section 3701.021 of the Revised Code, that payment of 30119
the premiums is cost-effective. 30120

(E) The department of health shall pay, from appropriations 30121
to the department, any necessary expenses, including but not 30122
limited to, expenses for diagnosis, treatment, service 30123
coordination, supportive services, transportation, and accessories 30124
and their upkeep, provided to medically handicapped children, 30125
provided that the provision of the goods or services is authorized 30126
by the department under division (B) or (D) of this section. Money 30127
appropriated to the department of health may also be expended for 30128
reasonable administrative costs incurred by the program. The 30129
department of health also may purchase liability insurance 30130
covering the provision of services under the program for medically 30131
handicapped children by physicians and other health care 30132
professionals. 30133

Payments made to providers by the department of health 30134
pursuant to this division for inpatient hospital care, outpatient 30135
care, and all other medical assistance furnished ~~by hospitals~~ to 30136
eligible recipients ~~shall be in accordance with methods~~ 30137
~~established by rules of the public health council. Until such~~ 30138
~~rules are adopted, the department of health shall make payments to~~ 30139
~~hospitals in accordance with reasonable cost principles for~~ 30140
~~reimbursement under the medicare program established under Title~~ 30141
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 30142

~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 30143
~~services other than inpatient or outpatient hospital care shall be~~ 30144
made in accordance with rules adopted by the public health council 30145
pursuant to division (A) of section 3701.021 of the Revised Code. 30146

The departments of health and job and family services shall 30147
jointly implement procedures to ensure that duplicate payments are 30148
not made under the program for medically handicapped children and 30149
the medical assistance program established under section 5111.01 30150
of the Revised Code and to identify and recover duplicate 30151
payments. 30152

(F)~~(1)~~ At the time of applying for participation in the 30153
program for medically handicapped children, a medically 30154
handicapped child or the child's parent or guardian shall disclose 30155
the identity of any third party against whom the child or the 30156
child's parent or guardian has or may have a right of recovery for 30157
goods and services provided under division (B) or (D) of this 30158
section. Except as provided in division (F)(2) of this section, 30159
the department of health shall require a medically handicapped 30160
child who receives services from the program or the child's parent 30161
or guardian to apply for all third-party benefits for which the 30162
child may be eligible and require the child, parent, or guardian 30163
to apply all third-party benefits received to the amount 30164
determined under division (E) of this section as the amount 30165
payable for goods and services authorized under division (B) or 30166
(D) of this section. The department is the payer of last resort 30167
and shall pay for authorized goods or services, up to the amount 30168
determined under division (E) of this section for the authorized 30169
goods or services, only to the extent that payment for the 30170
authorized goods or services is not made through third-party 30171
benefits. When a third party fails to act on an application or 30172
claim for benefits by a medically handicapped child or the child's 30173
parent or guardian, the department shall pay for the goods or 30174

services only after ninety days have elapsed since the date the 30175
child, parents, or guardians made an application or claim for all 30176
third-party benefits, except as provided in division (F)(2) of 30177
this section. Third-party benefits received shall be applied to 30178
the amount determined under division (E) of this section. 30179
Third-party payments for goods and services not authorized under 30180
division (B) or (D) of this section shall not be applied to 30181
payment amounts determined under division (E) of this section. 30182
Payment made by the department shall be considered payment in full 30183
of the amount determined under division (E) of this section. 30184
Medicaid payments for persons eligible for the medical assistance 30185
program established under section 5111.01 of the Revised Code 30186
shall be considered payment in full of the amount determined under 30187
division (E) of this section. 30188

~~(2) A medically handicapped child or the parent or guardian 30189
of such a child is not required to apply for assistance under the 30190
medical assistance program established under section 5111.01 of 30191
the Revised Code as a condition for eligibility under the program 30192
for medically handicapped children if applying for or receiving 30193
assistance under the medical assistance program violates a 30194
religious belief of the child, parent, or guardian and a tenet of 30195
the child's, parent's, or guardian's religion. 30196~~

(G) The department of health shall administer a program to 30197
provide services to Ohio residents who are twenty-one or more 30198
years of age who ~~are suffering from~~ have cystic fibrosis and who 30199
meet the eligibility requirements established by the rules of the 30200
public health council pursuant to division (A)(7) of section 30201
3701.021 of the Revised Code, subject to all provisions of this 30202
section, but not subject to section 3701.024 of the Revised Code. 30203

(H) The department of health shall provide for appeals, in 30204
accordance with rules adopted under section 3701.021 of the 30205
Revised Code, of denials of applications for the program for 30206

medically handicapped children under division (A) or (D) of this 30207
section, disqualification of providers, or amounts paid under 30208
division (E) of this section. Appeals under this division are not 30209
subject to Chapter 119. of the Revised Code. 30210

The department may designate ombudspersons to assist 30211
medically handicapped children or their parents or guardians, upon 30212
the request of the children, parents, or guardians, in filing 30213
appeals under this division and to serve as children's, parents', 30214
or guardians' advocates in matters pertaining to the 30215
administration of the program for medically handicapped children 30216
and eligibility for program services. The ombudspersons shall 30217
receive no compensation but shall be reimbursed by the department, 30218
in accordance with rules of the office of budget and management, 30219
for their actual and necessary travel expenses incurred in the 30220
performance of their duties. 30221

(I) The department of health, and city and general health 30222
districts providing service coordination pursuant to division 30223
(A)(2) of section 3701.024 of the Revised Code, shall provide 30224
service coordination in accordance with the standards set forth in 30225
the rules adopted under section 3701.021 of the Revised Code, 30226
without charge, and without restriction as to economic status. 30227

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 30228
the director of health has all of the following duties and powers: 30229

~~(1) The director shall make payments to boards of county 30230
commissioners in accordance with section 339.77 of the Revised 30231
Code. 30232~~

~~(2)~~ The director shall maintain registries of hospitals, 30233
clinics, physicians, or other care providers to whom the director 30234
shall refer persons who make inquiries to the department of health 30235
regarding possible exposure to tuberculosis. 30236

~~(3)~~(2) The director shall engage in tuberculosis surveillance 30237
activities, including the collection and analysis of 30238
epidemiological information relative to the frequency of 30239
tuberculosis infection, demographic and geographic distribution of 30240
tuberculosis cases, and trends pertaining to tuberculosis. 30241

~~(4)~~(3) The director shall maintain a tuberculosis registry to 30242
record the incidence of tuberculosis in this state. 30243

~~(5)~~(4) The director may appoint physicians to serve as 30244
tuberculosis consultants for geographic regions of the state 30245
specified by the director. Each tuberculosis consultant shall act 30246
in accordance with rules the director establishes and shall be 30247
responsible for advising and assisting physicians and other health 30248
care practitioners who participate in tuberculosis control 30249
activities and for reviewing medical records pertaining to the 30250
treatment provided to individuals with tuberculosis. 30251

(B)(1) The public health council shall adopt rules 30252
establishing standards for the following: 30253

(a) Performing tuberculosis screenings; 30254

(b) Performing examinations of individuals who have been 30255
exposed to tuberculosis and individuals who are suspected of 30256
having tuberculosis; 30257

(c) Providing treatment to individuals with tuberculosis; 30258

(d) Preventing individuals with communicable tuberculosis 30259
from infecting other individuals; 30260

(e) Performing laboratory tests for tuberculosis and studies 30261
of the resistance of tuberculosis to one or more drugs; 30262

(f) Selecting laboratories that provide in a timely fashion 30263
the results of a laboratory test for tuberculosis. The standards 30264
shall include a requirement that first consideration be given to 30265
laboratories located in this state. 30266

(2) Rules adopted pursuant to this section shall be adopted 30267
in accordance with Chapter 119. of the Revised Code and may be 30268
consistent with any recommendations or guidelines on tuberculosis 30269
issued by the United States centers for disease control and 30270
prevention or by the American thoracic society. The rules shall 30271
apply to county or district tuberculosis control units, physicians 30272
who examine and treat individuals for tuberculosis, and 30273
laboratories that perform tests for tuberculosis. 30274

Sec. 3701.65. (A) There is hereby created in the state 30275
treasury the "choose life" fund. The fund shall consist of the 30276
contributions that are paid to the registrar of motor vehicles by 30277
applicants who voluntarily elect to obtain "choose life" license 30278
plates pursuant to section 4503.91 of the Revised Code and any 30279
money returned to the fund under division (E)(1)(d) of this 30280
section. All investment earnings of the fund shall be credited to 30281
the fund. 30282

(B)(1) At least annually, the director of health shall 30283
distribute the money in the fund to any private, nonprofit 30284
organization that is eligible to receive funds under this section 30285
and that applies for funding under division (C) of this section. 30286

(2) The director shall distribute the funds based on the 30287
county in which the organization applying for funding is located 30288
and in proportion to the number of "choose life" license plates 30289
issued during the preceding year to vehicles registered in each 30290
county. Within each county, eligible organizations that apply for 30291
funding shall share equally in the funds available for 30292
distribution to organizations located within that county. 30293

(C) Any organization seeking funds under this section 30294
annually shall apply for distribution of the funds. The director 30295
shall develop an application form and may determine the schedule 30296
and procedures that an organization shall follow when annually 30297

applying for funds. The application shall inform the applicant of 30298
the conditions for receiving and using funds under division (E) of 30299
this section. The application shall require evidence that the 30300
organization meets all of the following requirements: 30301

(1) Is a private, nonprofit organization; 30302

(2) Is committed to counseling pregnant women about the 30303
option of adoption; 30304

(3) Provides services within the state to pregnant women who 30305
are planning to place their children for adoption, including 30306
counseling and meeting the material needs of the women; 30307

(4) Does not charge women for any services received; 30308

(5) Is not involved or associated with any abortion 30309
activities, including counseling for or referrals to abortion 30310
clinics, providing medical abortion-related procedures, or 30311
pro-abortion advertising; 30312

(6) Does not discriminate in its provision of any services on 30313
the basis of race, religion, color, age, marital status, national 30314
origin, handicap, gender, or age. 30315

(D) The director shall not distribute funds to an 30316
organization that does not provide verifiable evidence of the 30317
requirements specified in the application under division (C) of 30318
this section and shall not provide additional funds to any 30319
organization that fails to comply with division (E) of this 30320
section in regard to its previous receipt of funds under this 30321
section. 30322

(E)(1) An organization receiving funds under this section 30323
shall do all of the following: 30324

(a) Use not more than sixty per cent of the funds distributed 30325
to it for the material needs of pregnant women who are planning to 30326
place their children for adoption or for infants awaiting 30327

placement with adoptive parents, including clothing, housing, 30328
medical care, food, utilities, and transportation; 30329

(b) Use not more than forty per cent of the funds distributed 30330
to it for counseling, training, or advertising; 30331

(c) Not use any of the funds distributed to it for 30332
administrative expenses, legal expenses, or capital expenditures; 30333

(d) Annually return to the fund created under division (A) of 30334
this section any unused money that exceeds ten per cent of the 30335
money distributed to the organization. 30336

(2) The organization annually shall submit to the director an 30337
audited financial statement verifying its compliance with division 30338
(E)(1) of this section. 30339

(F) The director, in accordance with Chapter 119. of the 30340
Revised Code, shall adopt rules to implement this section. 30341

It is not the intent of the general assembly that the 30342
department create a new position within the department to 30343
implement and administer this section. It is the intent of the 30344
general assembly that the implementation and administration of 30345
this section be accomplished by existing department personnel. 30346

Sec. 3702.141. (A) As used in this section₇: 30347

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 30348
health care facility that is licensed or otherwise approved to 30349
practice in this state, in accordance with applicable law, is 30350
staffed and equipped to provide health care services, and actively 30351
provides health services or has not been actively providing health 30352
services for less than twelve consecutive months. 30353

(2) "Health care facility" and "health service" have the same 30354
meaning meanings as in section 3702.51 of the Revised Code. 30355

(B) Section 3702.14 of the Revised Code shall not be 30356

construed to require any existing health care facility that is
conducting an activity specified in section 3702.11 of the Revised
Code, which activity was initiated on or before March 20, 1997, to
alter, upgrade, or otherwise improve the structure or fixtures of
the facility in order to comply with any rule adopted under
section 3702.11 of the Revised Code relating to that activity,
unless one of the following applies:

(1) The facility initiates a construction, renovation, or
reconstruction project that involves a capital expenditure of at
least fifty thousand dollars, not including expenditures for
equipment or staffing or operational costs, and that directly
involves the area in which the existing service is conducted.

(2) The facility initiates another activity specified in
section 3702.11 of the Revised Code.

(3) The facility initiates a service level designation change
for obstetric and newborn care.

(4) The facility proposes to add a cardiac catheterization
laboratory to an existing cardiac catheterization service.

(5) The facility proposes to add an open-heart operating room
to an existing open-heart surgery service.

(6) The director of health determines, by clear and
convincing evidence, that failure to comply with the rule would
create an imminent risk to the health and welfare of any patient.

(C) If division (B)(4) or (5) of this section applies, any
alteration, upgrade, or other improvement required shall apply
only to the proposed addition to the existing service if the cost
of the addition is less than the capital expenditure threshold set
forth in division (B)(1) of this section.

(D) No person or government entity shall divide or otherwise
segment a construction, renovation, or reconstruction project in

order to evade application of the capital expenditure threshold 30387
set forth in division (B)(1) of this section. 30388

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 30389
Revised Code: 30390

(A) "Applicant" means any person that submits an application 30391
for a certificate of need and who is designated in the application 30392
as the applicant. 30393

(B) "Person" means any individual, corporation, business 30394
trust, estate, firm, partnership, association, joint stock 30395
company, insurance company, government unit, or other entity. 30396

(C) "Certificate of need" means a written approval granted by 30397
the director of health to an applicant to authorize conducting a 30398
reviewable activity. 30399

(D) "Health service area" means a geographic region 30400
designated by the director of health under section 3702.58 of the 30401
Revised Code. 30402

(E) "Health service" means a clinically related service, such 30403
as a diagnostic, treatment, rehabilitative, or preventive service. 30404

(F) "Health service agency" means an agency designated to 30405
serve a health service area in accordance with section 3702.58 of 30406
the Revised Code. 30407

(G) "Health care facility" means: 30408

(1) A hospital registered under section 3701.07 of the 30409
Revised Code; 30410

(2) A nursing home licensed under section 3721.02 of the 30411
Revised Code, or by a political subdivision certified under 30412
section 3721.09 of the Revised Code; 30413

(3) A county home or a county nursing home as defined in 30414
section 5155.31 of the Revised Code that is certified under Title 30415

XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;	30416 30417
(4) A freestanding dialysis center;	30418
(5) A freestanding inpatient rehabilitation facility;	30419
(6) An ambulatory surgical facility;	30420
(7) A freestanding cardiac catheterization facility;	30421
(8) A freestanding birthing center;	30422
(9) A freestanding or mobile diagnostic imaging center;	30423
(10) A freestanding radiation therapy center.	30424
A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or habilitation centers certified by the director of mental retardation and developmental disabilities under section 5123.041 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.	30425 30426 30427 30428 30429 30430 30431 30432 30433 30434 30435 30436 30437 30438 30439
(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.	30440 30441 30442
(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this	30443 30444 30445

section, an insurance company that issues sickness and accident 30446
insurance in conformity with Chapter 3923. of the Revised Code, a 30447
state-financed health insurance program under Chapter 3701., 30448
4123., or 5111. of the Revised Code, or any self-insurance plan. 30449

(J) "Government unit" means the state and any county, 30450
municipal corporation, township, or other political subdivision of 30451
the state, or any department, division, board, or other agency of 30452
the state or a political subdivision. 30453

(K) "Health maintenance organization" means a public or 30454
private organization organized under the law of any state that is 30455
qualified under section 1310(d) of Title XIII of the "Public 30456
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 30457

(L) "Existing health care facility" means a either of the 30458
following: 30459

(1) A health care facility that is licensed or otherwise 30460
approved authorized to practice operate in this state, in 30461
accordance with applicable law, is staffed and equipped to provide 30462
health care services, and is actively provides providing health 30463
services ~~or has not been actively providing health services for~~ 30464
~~less than twelve consecutive months;~~ 30465

(2) A health care facility that is licensed or has beds 30466
registered under section 3701.07 of the Revised Code as skilled 30467
nursing beds or long-term care beds and has provided services for 30468
at least three hundred sixty-five consecutive days within the 30469
twenty-four months immediately preceding the date a certificate of 30470
need application is filed with the director of health. 30471

(M) "State" means the state of Ohio, including, but not 30472
limited to, the general assembly, the supreme court, the offices 30473
of all elected state officers, and all departments, boards, 30474
offices, commissions, agencies, institutions, and other 30475
instrumentalities of the state of Ohio. "State" does not include 30476

political subdivisions.	30477
(N) "Political subdivision" means a municipal corporation,	30478
township, county, school district, and all other bodies corporate	30479
and politic responsible for governmental activities only in	30480
geographic areas smaller than that of the state to which the	30481
sovereign immunity of the state attaches.	30482
(O) "Affected person" means:	30483
(1) An applicant for a certificate of need, including an	30484
applicant whose application was reviewed comparatively with the	30485
application in question;	30486
(2) The person that requested the reviewability ruling in	30487
question;	30488
(3) Any person that resides or regularly uses health care	30489
facilities within the geographic area served or to be served by	30490
the health care services that would be provided under the	30491
certificate of need or reviewability ruling in question;	30492
(4) Any health care facility that is located in the health	30493
service area where the health care services would be provided	30494
under the certificate of need or reviewability ruling in question;	30495
(5) Third-party payers that reimburse health care facilities	30496
for services in the health service area where the health care	30497
services would be provided under the certificate of need or	30498
reviewability ruling in question;	30499
(6) Any other person who testified at a public hearing held	30500
under division (B) of section 3702.52 of the Revised Code or	30501
submitted written comments in the course of review of the	30502
certificate of need application in question.	30503
(P) "Osteopathic hospital" means a hospital registered under	30504
section 3701.07 of the Revised Code that advocates osteopathic	30505
principles and the practice and perpetuation of osteopathic	30506

medicine by doing any of the following: 30507

(1) Maintaining a department or service of osteopathic 30508
medicine or a committee on the utilization of osteopathic 30509
principles and methods, under the supervision of an osteopathic 30510
physician; 30511

(2) Maintaining an active medical staff, the majority of 30512
which is comprised of osteopathic physicians; 30513

(3) Maintaining a medical staff executive committee that has 30514
osteopathic physicians as a majority of its members. 30515

(Q) "Ambulatory surgical facility" has the same meaning as in 30516
section 3702.30 of the Revised Code. 30517

(R) Except as otherwise provided in division (T) of this 30518
section, and until the termination date specified in section 30519
3702.511 of the Revised Code, "reviewable activity" means any of 30520
the following: 30521

(1) The addition by any person of any of the following health 30522
services, regardless of the amount of operating costs or capital 30523
expenditures: 30524

(a) A heart, heart-lung, lung, liver, kidney, bowel, 30525
pancreas, or bone marrow transplantation service, a stem cell 30526
harvesting and reinfusion service, or a service for 30527
transplantation of any other organ unless transplantation of the 30528
organ is designated by public health council rule not to be a 30529
reviewable activity; 30530

(b) A cardiac catheterization service; 30531

(c) An open-heart surgery service; 30532

(d) Any new, experimental medical technology that is 30533
designated by rule of the public health council. 30534

(2) The acceptance of high-risk patients, as defined in rules 30535

adopted under section 3702.57 of the Revised Code, by any cardiac
catheterization service that was initiated without a certificate
of need pursuant to division (R)(3)(b) of the version of this
section in effect immediately prior to April 20, 1995;

(3)(a) The establishment, development, or construction of a
new health care facility other than a new long-term care facility
or a new hospital;

(b) The establishment, development, or construction of a new
hospital or the relocation of an existing hospital;

(c) The relocation of hospital beds, other than long-term
care, perinatal, or pediatric intensive care beds, into or out of
a rural area.

(4)(a) The replacement of an existing hospital;

(b) The replacement of an existing hospital obstetric or
newborn care unit or freestanding birthing center.

(5)(a) The renovation of a hospital that involves a capital
expenditure, obligated on or after ~~the effective date of this~~
~~amendment~~ June 30, 1995, of five million dollars or more, not
including expenditures for equipment, staffing, or operational
costs. For purposes of division (R)(5)(a) of this section, a
capital expenditure is obligated:

(i) When a contract enforceable under Ohio law is entered
into for the construction, acquisition, lease, or financing of a
capital asset;

(ii) When the governing body of a hospital takes formal
action to commit its own funds for a construction project
undertaken by the hospital as its own contractor;

(iii) In the case of donated property, on the date the gift
is completed under applicable Ohio law.

(b) The renovation of a hospital obstetric or newborn care

unit or freestanding birthing center that involves a capital	30566
expenditure of five million dollars or more, not including	30567
expenditures for equipment, staffing, or operational costs.	30568
(6) Any change in the health care services, bed capacity, or	30569
site, or any other failure to conduct the reviewable activity in	30570
substantial accordance with the approved application for which a	30571
certificate of need was granted, if the change is made prior to	30572
the date the activity for which the certificate was issued ceases	30573
to be a reviewable activity;	30574
(7) Any of the following changes in perinatal bed capacity or	30575
pediatric intensive care bed capacity:	30576
(a) An increase in bed capacity;	30577
(b) A change in service or service-level designation of	30578
newborn care beds or obstetric beds in a hospital or freestanding	30579
birthing center, other than a change of service that is provided	30580
within the service-level designation of newborn care or obstetric	30581
beds as registered by the department of health;	30582
(c) A relocation of perinatal or pediatric intensive care	30583
beds from one physical facility or site to another, excluding the	30584
relocation of beds within a hospital or freestanding birthing	30585
center or the relocation of beds among buildings of a hospital or	30586
freestanding birthing center at the same site.	30587
(8) The expenditure of more than one hundred ten per cent of	30588
the maximum expenditure specified in a certificate of need;	30589
(9) Any transfer of a certificate of need issued prior to	30590
April 20, 1995, from the person to whom it was issued to another	30591
person before the project that constitutes a reviewable activity	30592
is completed, any agreement that contemplates the transfer of a	30593
certificate of need issued prior to that date upon completion of	30594
the project, and any transfer of the controlling interest in an	30595

entity that holds a certificate of need issued prior to that date. 30596
However, the transfer of a certificate of need issued prior to 30597
that date or agreement to transfer such a certificate of need from 30598
the person to whom the certificate of need was issued to an 30599
affiliated or related person does not constitute a reviewable 30600
transfer of a certificate of need for the purposes of this 30601
division, unless the transfer results in a change in the person 30602
that holds the ultimate controlling interest in the certificate of 30603
need. 30604

(10)(a) The acquisition by any person of any of the following 30605
medical equipment, regardless of the amount of operating costs or 30606
capital expenditure: 30607

(i) A cobalt radiation therapy unit; 30608

(ii) A linear accelerator; 30609

(iii) A gamma knife unit. 30610

(b) The acquisition by any person of medical equipment with a 30611
cost of two million dollars or more. The cost of acquiring medical 30612
equipment includes the sum of the following: 30613

(i) The greater of its fair market value or the cost of its 30614
lease or purchase; 30615

(ii) The cost of installation and any other activities 30616
essential to the acquisition of the equipment and its placement 30617
into service. 30618

(11) The addition of another cardiac catheterization 30619
laboratory to an existing cardiac catheterization service. 30620

(S) Except as provided in division (T) of this section, 30621
"reviewable activity" also means any of the following activities, 30622
none of which are subject to a termination date: 30623

(1) The establishment, development, or construction of a new 30624
long-term care facility; 30625

(2) The replacement of an existing long-term care facility;	30626
(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;	30627 30628 30629 30630
(4) Any of the following changes in long-term care bed capacity:	30631 30632
(a) An increase in bed capacity;	30633
(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;	30634 30635 30636 30637
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	30638 30639 30640
(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;	30641 30642 30643 30644 30645 30646
(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;	30647 30648 30649
(7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the	30650 30651 30652 30653 30654 30655

controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(T) "Reviewable activity" does not include any of the following activities:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;

(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;

(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;

(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;

(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type

of health services;	30686
(9) Construction, repair, or renovation of bathroom facilities;	30687 30688
(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;	30689 30690 30691 30692
(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.	30693 30694 30695 30696 30697 30698 30699 30700 30701
(12) Removal of asbestos from a health care facility.	30702
Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.	30703 30704
(U) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.	30705 30706 30707 30708
(V) "Children's hospital" means any of the following:	30709
(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;	30710 30711 30712 30713 30714
(2) A distinct portion of a hospital registered under section	30715

3701.07 of the Revised Code that provides general pediatric 30716
medical and surgical care, has a total of at least one hundred 30717
fifty registered pediatric special care and pediatric acute care 30718
beds, and in which at least seventy-five per cent of annual 30719
inpatient discharges for the preceding two calendar years were 30720
individuals less than eighteen years of age; 30721

(3) A distinct portion of a hospital, if the hospital is 30722
registered under section 3701.07 of the Revised Code as a 30723
children's hospital and the children's hospital meets all the 30724
requirements of division (V)(1) of this section. 30725

(W) "Long-term care facility" means any of the following: 30726

(1) A nursing home licensed under section 3721.02 of the 30727
Revised Code or by a political subdivision certified under section 30728
3721.09 of the Revised Code; 30729

(2) The portion of any facility, including a county home or 30730
county nursing home, that is certified as a skilled nursing 30731
facility or a nursing facility under Title XVIII or XIX of the 30732
"Social Security Act"; 30733

(3) The portion of any hospital that contains beds registered 30734
under section 3701.07 of the Revised Code as skilled nursing beds 30735
or long-term care beds. 30736

(X) "Long-term care bed" means a bed in a long-term care 30737
facility. 30738

(Y) "Perinatal bed" means a bed in a hospital that is 30739
registered under section 3701.07 of the Revised Code as a newborn 30740
care bed or obstetric bed, or a bed in a freestanding birthing 30741
center. 30742

(Z) "Freestanding birthing center" means any facility in 30743
which deliveries routinely occur, regardless of whether the 30744
facility is located on the campus of another health care facility, 30745

and which is not licensed under Chapter 3711. of the Revised Code 30746
as a level one, two, or three maternity unit or a limited 30747
maternity unit. 30748

(AA)(1) "Reviewability ruling" means a ruling issued by the 30749
director of health under division (A) of section 3702.52 of the 30750
Revised Code as to whether a particular proposed project is or is 30751
not a reviewable activity. 30752

(2) "Nonreviewability ruling" means a ruling issued under 30753
that division that a particular proposed project is not a 30754
reviewable activity. 30755

(BB)(1) "Metropolitan statistical area" means an area of this 30756
state designated a metropolitan statistical area or primary 30757
metropolitan statistical area in United States office of 30758
management and budget bulletin No. 93-17, June 30, 1993, and its 30759
attachments. 30760

(2) "Rural area" means any area of this state not located 30761
within a metropolitan statistical area. 30762

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 30763
of the Revised Code, this section applies to the review of 30764
certificate of need applications during the period beginning July 30765
1, 1993, and ending June 30, ~~2005~~ 2007. 30766

As used in this section, "existing health care facility" has 30767
the same meaning as in section 3702.51 of the Revised Code. 30768

(B)(1) Except as provided in division (B)(2) of this section, 30769
the director of health shall neither grant nor deny any 30770
application for a certificate of need submitted prior to July 1, 30771
1993, if the application was for any of the following and the 30772
director had not issued a written decision concerning the 30773
application prior to that date: 30774

(a) Approval of beds in a new health care facility or an 30775

increase of beds in an existing health care facility, if the beds
are proposed to be licensed as nursing home beds under Chapter
3721. of the Revised Code; 30776
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(b) Approval of beds in a new county home or new county
nursing home as defined in section 5155.31 of the Revised Code, or
an increase of beds in an existing county home or existing county
nursing home, if the beds are proposed to be certified as skilled
nursing facility beds under Title XVIII or nursing facility beds
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935),
42 U.S.C.A. 301, as amended; 30779
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(c) Recategorization of hospital beds as described in section
3702.522 of the Revised Code, an increase of hospital beds
registered pursuant to section 3701.07 of the Revised Code as
long-term care beds or skilled nursing facility beds, or a
recategorization of hospital beds that would result in an increase
of beds registered pursuant to that section as long-term care beds
or skilled nursing facility beds. 30786
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On July 1, 1993, the director shall return each such
application to the applicant and, notwithstanding section 3702.52
of the Revised Code regarding the uses of the certificate of need
fund, shall refund to the applicant the application fee paid under
that section. Applications returned under division (B)(1) of this
section may be resubmitted in accordance with section 3702.52 of
the Revised Code no sooner than July 1, ~~2005~~ 2007. 30793
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(2) The director shall continue to review and shall issue a
decision regarding any application submitted prior to July 1,
1993, to increase beds for either of the purposes described in
division (B)(1)(a) or (b) of this section if the proposed increase
in beds is attributable solely to a replacement or relocation of
existing beds within the same county. The director shall authorize
under such an application no additional beds beyond those being 30800
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replaced or relocated.

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(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

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(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

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The director shall not approve an application for a certificate of need for addition of long-term care beds to an existing health care facility by relocation of beds or for the development of a new health care facility by relocation of beds unless all of the following conditions are met:

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(i) The existing health care facility to which the beds are being relocated has no life safety code waivers, no state fire code violations, and no state building code violations;

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(ii) During the sixty month period preceding the filing of the application, no notice of proposed revocation of the facility's license was issued under section 3721.03 of the Revised Code to the operator of the existing facility to which the beds are being relocated or to any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business;

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(iii) Neither the existing health care facility to which the beds are being relocated nor any health care facility owned or

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operated by the applicant or any principal participant in the same 30838
corporation or other business has had a long-standing pattern of 30839
violations of this chapter or deficiencies that caused one or more 30840
residents physical, emotional, mental, or psychosocial harm. 30841

(b) The director also shall accept for review any application 30842
for either of the purposes described in division (B)(1)(a) or (b) 30843
of this section if the proposed increase in beds is attributable 30844
solely to the conversion of residential care facility beds 30845
licensed under Chapter 3721. of the Revised Code to nursing home 30846
beds that are licensed under that chapter, are located in the same 30847
existing health care facility, and were previously converted from 30848
nursing home beds to residential care facility beds for the 30849
purpose of the facility's participation in the assisted living 30850
program as defined in section 5111.89 of the Revised Code. The 30851
director shall authorize under such an application no additional 30852
beds beyond those being converted from residential care facility 30853
beds to nursing home beds. 30854

(c) The director also shall accept for review any application 30855
that seeks certificate of need approval for existing the 30856
conversion of infirmary beds located in an to long-term care beds 30857
if the infirmary that is meets all of the following conditions: 30858

(i) Is operated exclusively by a religious order, provides; 30859

(ii) Provides care exclusively to members of religious orders 30860
who take vows of celibacy and live by virtue of their vows within 30861
the orders as if related, ~~and was;~~ 30862

(iii) Was providing care exclusively to members of such a 30863
religious order on January 1, 1994. 30864

(D) The director shall issue a decision regarding any case 30865
remanded by a court as the result of a decision issued by the 30866
director prior to July 1, 1993, to grant, deny, or withdraw a 30867
certificate of need for any of the purposes described in divisions 30868

(B)(1)(a) to (c) of this section. 30869

(E) The director shall not project the need for beds listed 30870
in division (B)(1) of this section for the period beginning July 30871
1, 1993, and ending June 30, ~~2005~~ 2007. 30872

This section is an interim section effective until July 1, 30873
~~2005~~ 2007. 30874

Sec. 3702.74. (A) A primary care physician who has signed a 30875
letter of intent under section 3702.73 of the Revised Code, the 30876
director of health, and the Ohio board of regents may enter into a 30877
contract for the physician's participation in the physician loan 30878
repayment program. A lending institution may also be a party to 30879
the contract. 30880

(B) The contract shall include all of the following 30881
obligations: 30882

(1) The primary care physician agrees to provide primary care 30883
services in the health resource shortage area identified in the 30884
letter of intent for at least two years or one year per twenty 30885
thousand dollars of repayment agreed to under division (B)(3) of 30886
this section, whichever is greater; 30887

(2) When providing primary care services in the health 30888
resource shortage area, the primary care physician agrees to do 30889
all of the following: 30890

(a) Provide primary care services for a minimum of forty 30891
hours per week; 30892

(b) Provide primary care services without regard to a 30893
patient's ability to pay; 30894

(c) Meet the conditions prescribed by the "Social Security 30895
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 30896
department of job and family services for participation in the 30897

medical assistance program established under Chapter 5111. of the 30898
Revised Code and enter into a contract with the department to 30899
provide primary care services to recipients of the medical 30900
assistance program; 30901

~~(d) Meet the conditions established by the department of job 30902
and family services for participation in the disability medical 30903
assistance program established under Chapter 5115. of the Revised 30904
Code and enter into a contract with the department to provide 30905
primary care services to recipients of disability medical 30906
assistance. 30907~~

(3) The Ohio board of regents agrees, as provided in section 30908
3702.75 of the Revised Code, to repay, so long as the primary care 30909
physician performs the service obligation agreed to under division 30910
(B)(1) of this section, all or part of the principal and interest 30911
of a government or other educational loan taken by the primary 30912
care physician for expenses described in section 3702.75 of the 30913
Revised Code; 30914

(4) The primary care physician agrees to pay the board the 30915
following as damages if the physician fails to complete the 30916
service obligation agreed to under division (B)(1) of this 30917
section: 30918

(a) If the failure occurs during the first two years of the 30919
service obligation, three times the total amount the board has 30920
agreed to repay under division (B)(3) of this section; 30921

(b) If the failure occurs after the first two years of the 30922
service obligation, three times the amount the board is still 30923
obligated to repay under division (B)(3) of this section. 30924

(C) The contract may include any other terms agreed upon by 30925
the parties, including an assignment to the Ohio board of regents 30926
of the physician's duty to pay the principal and interest of a 30927
government or other educational loan taken by the physician for 30928

expenses described in section 3702.75 of the Revised Code. If the
board assumes the physician's duty to pay a loan, the contract
shall set forth the total amount of principal and interest to be
paid, an amortization schedule, and the amount of each payment to
be made under the schedule.

Sec. 3702.83. The department of health shall administer a
program, to be known as the J-1 visa waiver program, for
recruiting physicians who received graduate medical education or
training in the United States but are not citizens of the United
States to serve in areas of the state designated by the United
States secretary of health and human services as health
professional shortage areas under the "Public Health Service Act,"
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the
program, the department of health shall accept and review
applications for placement of persons seeking to remain in the
United States pursuant to the "Immigration and Nationality Act,"
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended,
by obtaining a waiver of the federal requirement that they return
to their home countries for a minimum of two years after
completing the graduate medical education or training for which
they were admitted to the United States. The department shall
administer the program in accordance with the "Immigration and
Nationality Act" and the regulations adopted under it.

For each application accepted for review under this section,
the department shall charge a fee of three thousand five hundred
seventy-one dollars. The fee is nonrefundable. All fees collected
shall be deposited into the state treasury to the credit of
general operations fund created in section 3701.83 of the Revised
Code.

Sec. 3703.01. (A) The division of industrial compliance in

the department of commerce shall: 30959

(1) Inspect all nonresidential buildings within the meaning 30960
of section 3781.06 of the Revised Code; 30961

(2) Condemn all unsanitary or defective plumbing that is 30962
found in connection with those places; 30963

(3) Order changes in plumbing necessary to insure the safety 30964
of the public health. 30965

(B)(1) The division of industrial compliance and boards of 30966
health of city and general health districts shall not inspect 30967
plumbing or collect fees for inspecting plumbing in particular 30968
types of buildings in any municipal corporation that has been 30969
certified by the board of building standards under section 3781.10 30970
of the Revised Code to exercise enforcement authority for plumbing 30971
in such types of buildings. 30972

(2) The division shall not inspect plumbing or collect fees 30973
for inspecting plumbing in particular types of buildings in any 30974
health district that has employed one or more approved plumbing 30975
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 30976
and the rules adopted pursuant to those chapters relating to 30977
plumbing in such types of buildings. 30978

(3) A municipal corporation does not have jurisdiction to 30979
inspect plumbing or collect fees for the inspection of plumbing in 30980
types of buildings for which it has not been certified by the 30981
board of building standards under section 3781.10 of the Revised 30982
Code to exercise enforcement authority. 30983

(4) A board of health of a health district does not have 30984
jurisdiction to inspect plumbing or collect fees for the 30985
inspection of plumbing in types of buildings for which it does not 30986
have an approved plumbing inspector. 30987

(C) The superintendent of industrial compliance shall adopt 30988

rules prescribing minimum qualifications based on education, 30989
training, experience, or demonstrated ability, which the ~~director~~ 30990
superintendent shall use in ~~approving~~ certifying or recertifying 30991
plumbing inspectors to do plumbing inspections for health 30992
districts and for continuing education of plumbing inspectors. 30993
Such minimum qualifications shall be related to the types of 30994
buildings for which a person seeks approval. 30995

(D) The superintendent may enter into reciprocal 30996
registration, licensure, or certification agreements with other 30997
states and other agencies of this state relative to plumbing 30998
inspectors if both of the following apply: 30999

(1) The requirements for registration, licensure, or 31000
certification of plumbing inspectors under the laws of the other 31001
state or laws administered by the other agency are substantially 31002
equal to the requirements the superintendent adopts under division 31003
(C) of this section for certifying plumbing inspectors. 31004

(2) The other state or agency extends similar reciprocity to 31005
persons certified under this chapter. 31006

(E) The superintendent may select and contract with one or 31007
more persons to do all of the following regarding examinations for 31008
certification of plumbing inspectors: 31009

(1) Prepare, administer, score, and maintain the 31010
confidentiality of the examination; 31011

(2) Maintain responsibility for all expenses required to 31012
comply with division (E)(1) of this section; 31013

(3) Charge each applicant a fee for administering the 31014
examination in an amount the superintendent authorizes; 31015

(4) Design the examination for certification of plumbing 31016
inspectors to determine an applicant's competence to inspect 31017
plumbing. 31018

(F) Standards and methods prescribed in local plumbing 31019
regulations shall not be less than those prescribed in Chapters 31020
3781. and 3791. of the Revised Code and the rules adopted pursuant 31021
to those chapters. 31022

~~(E)~~(G) Notwithstanding any other provision of this section, 31023
the division shall make a plumbing inspection of any building or 31024
other place that there is reason to believe is in a condition to 31025
be a menace to the public health. 31026

Sec. 3703.03. In the administration of sections 3703.01 to 31027
3703.09 of the Revised Code, the division of industrial compliance 31028
~~in the department of commerce~~ shall enforce rules governing 31029
plumbing adopted by the board of building standards under 31030
authority of sections 3781.10 and 3781.11 of the Revised Code, and 31031
register those persons engaged in or at the plumbing business. 31032

Plans and specifications for all plumbing to be installed in 31033
or for buildings coming within such sections shall be submitted to 31034
and approved by the division before the contract for plumbing is 31035
let. 31036

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 31037
industrial compliance shall appoint such number of plumbing 31038
inspectors as is required. The inspectors shall be practical 31039
plumbers with at least seven years' experience, and skilled and 31040
well-trained in matters pertaining to sanitary regulations 31041
concerning plumbing work. 31042

~~No plumbing inspector employed by the department and assigned 31043
to the enforcement of this chapter shall be engaged or interested 31044
in the plumbing business or the sale of any plumbing supplies, nor 31045
shall the inspector act as agent, directly or indirectly, for any 31046
person so engaged. 31047~~

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 31048
~~division~~ of ~~commerce~~ industrial compliance assigned to the 31049
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 31050
may, between sunrise and sunset, enter any building where there is 31051
good and sufficient reason to believe that the sanitary condition 31052
of the premises endangers the public health, for the purpose of 31053
making an inspection to ascertain the condition of the premises. 31054

Sec. 3703.06. When any building is found to be in a sanitary 31055
condition or when changes which are ordered, under authority of 31056
this chapter, in the plumbing, drainage, or ventilation have been 31057
made, and after a thorough inspection and approval by the ~~division~~ 31058
superintendent of industrial compliance in the ~~department of~~ 31059
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 31060
~~signed by the superintendent of the division of industrial~~ 31061
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 31062
the benefit of the public at large. Upon notification by the 31063
superintendent, the certificate shall be revoked for any violation 31064
of those sections. 31065

Sec. 3703.07. No plumbing work shall be done in any building 31066
or place coming within the jurisdiction of the ~~department~~ division 31067
of ~~commerce~~ industrial compliance, except in cases of repairs or 31068
leaks in existing plumbing, until a permit has been issued by the 31069
~~department~~ division. 31070

Before granting such permit, an application shall be made by 31071
the owner of the property or by the person, firm, or corporation 31072
which is to do the work. The application shall be made on a form 31073
prepared by the ~~department~~ division for the purpose, and each 31074
application shall be accompanied by a fee of twenty-seven dollars, 31075
and an additional fee of seven dollars for each trap, vented 31076
fixture, appliance, or device. Each application also shall be 31077

accompanied by a plan approval fee of eighteen dollars for work 31078
containing one through twenty fixtures; thirty-six dollars for 31079
work containing twenty-one through forty fixtures; and fifty-four 31080
dollars for work containing forty-one or more fixtures. 31081

Whenever a reinspection is made necessary by the failure of 31082
the applicant or plumbing contractor to have the work ready for 31083
inspection when so reported, or by reason of faulty or improper 31084
installation, the person shall pay a fee of forty-five dollars for 31085
each reinspection. 31086

All fees collected pursuant to this section shall be paid 31087
into the state treasury to the credit of the industrial compliance 31088
operating fund created in section 121.084 of the Revised Code. 31089

The ~~director~~ superintendent of ~~commerce~~ industrial 31090
compliance, by rule adopted in accordance with Chapter 119. of the 31091
Revised Code, may increase the fees required by this section and 31092
may establish fees to pay the costs of the division to fulfill its 31093
duties established by this chapter, including, but not limited to, 31094
fees for administering a program for continuing education for, and 31095
certifying and recertifying plumbing inspectors. The fees shall 31096
bear some reasonable relationship to the cost of administering and 31097
enforcing the provisions of this chapter. 31098

Sec. 3703.08. Any owner, agent, or manager, of a building in 31099
which an inspection is made by the ~~department~~ division of ~~commerce~~ 31100
industrial compliance, a board of health of a health district, or 31101
a certified department of building inspection of a municipal 31102
corporation, shall have the entire system of drainage and 31103
ventilation repaired, as the ~~department of commerce~~ division, 31104
board of health, or department of building inspection directs by 31105
its order. After due notice to repair such work is given, the 31106
owner, agent, or manager shall notify the public authority that 31107
issued the order when the work is ready for its inspection. No 31108

person shall fail to have the work ready for inspection at the 31109
time specified in the notice. 31110

Sec. 3703.10. All prosecutions and proceedings by the 31111
~~department~~ division of ~~commerce~~ industrial compliance for the 31112
violation of sections 3703.01 to 3703.09 of the Revised Code, or 31113
for the violation of any of the orders or rules of the ~~department~~ 31114
division under those sections, shall be instituted by the ~~director~~ 31115
superintendent of ~~commerce~~ industrial compliance. All fines or 31116
judgments collected by the ~~department~~ division shall be paid into 31117
the state treasury to the credit of the industrial compliance 31118
operating fund created by section 121.084 of the Revised Code. 31119

The ~~director~~ superintendent, the board of health of a general 31120
or city health district, or any person charged with enforcing the 31121
rules of the ~~department~~ division adopted under sections 3703.01 to 31122
3703.09 of the Revised Code may petition the court of common pleas 31123
for injunctive or other appropriate relief requiring any person 31124
violating a rule adopted or order issued by the ~~director~~ 31125
superintendent under those sections to comply with the rule or 31126
order. The court of common pleas of the county in which the 31127
offense is alleged to be occurring may grant injunctive or other 31128
appropriate relief. 31129

The superintendent may do all of the following: 31130

(A) Deny an applicant certification as a plumbing inspector; 31131

(B) Suspend or revoke the certification of a plumbing 31132
inspector; 31133

(C) Examine any certified plumbing inspector under oath; 31134

(D) Examine the records and books of any certified plumbing 31135
inspector if the superintendent finds the material to be examined 31136
relevant to a determination described in division (A), (B), or (C) 31137
of this section. 31138

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 31139
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 31140
industrial compliance is required to enforce under such sections, 31141
shall be fined not less than ten nor more than one hundred dollars 31142
or imprisoned for not less than ten nor more than ninety days, or 31143
both. No person shall be imprisoned under this section for the 31144
first offense, and the prosecution always shall be as for a first 31145
offense unless the affidavit upon which the prosecution is 31146
instituted contains the allegation that the offense is a second or 31147
repeated offense. 31148

Sec. 3705.24. (A)(1) The public health council shall, in 31149
accordance with section 111.15 of the Revised Code, adopt rules 31150
prescribing fees for the following services provided by the state 31151
office of vital statistics: 31152

(a) Except as provided in division (A)(4) of this section: 31153

(i) A certified copy of a vital record or a certification of 31154
birth; 31155

(ii) A search by the office of vital statistics of its files 31156
and records pursuant to a request for information, regardless of 31157
whether a copy of a record is provided; 31158

(iii) A copy of a record provided pursuant to a request; 31159

(b) Replacement of a birth certificate following an adoption, 31160
legitimation, paternity determination or acknowledgement, or court 31161
order; 31162

(c) Filing of a delayed registration of a vital record; 31163

(d) Amendment of a vital record that is requested later than 31164
one year after the filing date of the vital record; 31165

(e) Any other documents or services for which the public 31166
health council considers the charging of a fee appropriate. 31167

(2) Fees prescribed under division (A)(1)(a) of this section 31168
shall not be less than seven dollars. 31169

(3) Fees prescribed under division (A)(1) of this section 31170
shall be collected in addition to any ~~fee~~ fees required by ~~section~~ 31171
sections 3109.14 and 3705.242 of the Revised Code. 31172

(4) Fees prescribed under division (A) of this section shall 31173
not apply to certifications issued under division (H) of this 31174
section or copies provided under section 3705.241 of the Revised 31175
Code. 31176

(B) In addition to the fees prescribed under division (A) of 31177
this section or section 3709.09 of the Revised Code, the office of 31178
vital statistics or the board of health of a city or general 31179
health district shall charge a five-dollar fee for each certified 31180
copy of a vital record and each certification of birth. This fee 31181
shall be deposited in the general operations fund created under 31182
section 3701.83 of the Revised Code and be used solely toward the 31183
modernization and automation of the system of vital records in 31184
this state. A board of health shall forward all fees collected 31185
under this division to the department of health not later than 31186
thirty days after the end of each calendar quarter. 31187

(C) Except as otherwise provided in division (H) of this 31188
section, and except as provided in section 3705.241 of the Revised 31189
Code, fees collected by the director of health under sections 31190
3705.01 to 3705.29 of the Revised Code shall be paid into the 31191
state treasury to the credit of the general operations fund 31192
created by section 3701.83 of the Revised Code. Except as provided 31193
in division (B) of this section, money generated by the fees shall 31194
be used only for administration and enforcement of this chapter 31195
and the rules adopted under it. Amounts submitted to the 31196
department of health for copies of vital records or services in 31197
excess of the fees imposed by this section shall be dealt with as 31198

follows:	31199
(1) An overpayment of two dollars or less shall be retained	31200
by the department and deposited in the state treasury to the	31201
credit of the general operations fund created by section 3701.83	31202
of the Revised Code.	31203
(2) An overpayment in excess of two dollars shall be returned	31204
to the person who made the overpayment.	31205
(D) If a local registrar is a salaried employee of a city or	31206
a general health district, any fees the local registrar receives	31207
pursuant to section 3705.23 of the Revised Code shall be paid into	31208
the general fund of the city or the health fund of the general	31209
health district.	31210
Each local registrar of vital statistics, or each health	31211
district where the local registrar is a salaried employee of the	31212
district, shall be entitled to a fee for each birth, fetal death,	31213
death, or military service certificate properly and completely	31214
made out and registered with the local registrar or district and	31215
correctly copied and forwarded to the office of vital statistics	31216
in accordance with the population of the primary registration	31217
district at the last federal census. The fee for each birth, fetal	31218
death, death, or military service certificate shall be:	31219
(1) In primary registration districts of over two hundred	31220
fifty thousand, twenty cents;	31221
(2) In primary registration districts of over one hundred	31222
twenty-five thousand and less than two hundred fifty thousand,	31223
sixty cents;	31224
(3) In primary registration districts of over fifty thousand	31225
and less than one hundred twenty-five thousand, eighty cents;	31226
(4) In primary registration districts of less than fifty	31227
thousand, one dollar.	31228

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom

certification of birth fund which is hereby created. Money 31261
credited to the fund shall be used by the office of vital 31262
statistics to offset the expense of processing heirloom 31263
certifications of birth. However, the money collected for the 31264
surcharge, subject to the approval of the controlling board, shall 31265
be used for the purposes specified by the family and children 31266
first council pursuant to section 121.37 of the Revised Code. 31267

Sec. 3705.242. (A)(1) The director of health, a person 31268
authorized by the director, a local commissioner of health, or a 31269
local registrar of vital statistics shall charge and collect a fee 31270
of one dollar and fifty cents for each certified copy of a birth 31271
record, each certification of birth, and each copy of a death 31272
record. The fee is in addition to the fee imposed by section 31273
3705.24 or any other section of the Revised Code. A local 31274
commissioner of health or local registrar of vital statistics may 31275
retain an amount of each additional fee collected, not to exceed 31276
three per cent of the amount of the additional fee, to be used for 31277
costs directly related to the collection of the fee and the 31278
forwarding of the fee to the treasurer of state. 31279

(2) On the filing of a divorce decree under section 3105.10 31280
or a decree of dissolution under section 3105.65 of the Revised 31281
Code, a court of common pleas shall charge and collect a fee of 31282
five dollars and fifty cents. The fee is in addition to any other 31283
court costs or fees. The county clerk of courts may retain an 31284
amount of each additional fee collected, not to exceed three per 31285
cent of the amount of the additional fee, to be used for costs 31286
directly related to the collection of the fee and the forwarding 31287
of the fee to the treasurer of state. 31288

(B) The additional fees collected, but not retained, under 31289
this section during each month shall be forwarded not later than 31290
the tenth day of the immediately following month to the treasurer 31291

of state, who shall deposit the fees in the state treasury to the 31292
credit of the family violence prevention fund, which is hereby 31293
created. A person or government entity that fails to forward the 31294
fees in a timely manner, as determined by the treasurer of state, 31295
shall forward to the treasurer of state, in addition to the fees, 31296
a penalty equal to ten per cent of the fees. 31297

The treasurer of state shall invest the moneys in the fund. 31298
All earnings resulting from investment of the fund shall be 31299
credited to the fund, except that actual administration costs 31300
incurred by the treasurer of state in administering the fund may 31301
be deducted from the earnings resulting from investments. The 31302
amount that may be deducted shall not exceed three per cent of the 31303
total amount of fees credited to the fund in each fiscal year. The 31304
balance of the investment earnings shall be credited to the fund. 31305

(C) The director of public safety shall use money credited to 31306
the fund to provide grants to family violence shelters in Ohio. 31307

Sec. 3709.29. If the estimated amount of money necessary to 31308
meet the expenses of a general health district program will not be 31309
forthcoming to the board of health of ~~such~~ the district out of the 31310
district health fund because the taxes within the ten-mill 31311
limitation will be insufficient, the board of health shall certify 31312
~~the fact of such~~ that there is an insufficiency of funds for the 31313
program to the board of county commissioners of the county in 31314
which ~~such~~ the district is located. ~~Such~~ The board of county 31315
commissioners is ~~hereby ordained~~ considered to be a special taxing 31316
authority for the purposes of this section only, and, 31317
notwithstanding any other law to the contrary, the board of county 31318
commissioners of any county in which a general health district is 31319
located is the taxing authority for ~~such~~ a special levy under this 31320
section outside the ten-mill limitation. ~~The~~ 31321

Upon receipt of the board of health's certification, the 31322

board of county commissioners ~~shall thereupon~~, in the year 31323
preceding that in which ~~such~~ the general health district program 31324
will be effective, by vote of two-thirds of all the members of 31325
that body, shall declare by resolution that the amount of taxes 31326
~~which that~~ may be raised within the ten-mill limitation will be 31327
insufficient to provide an adequate amount for the necessary 31328
requirements of ~~such~~ the district within the county, and that it 31329
is necessary to levy a tax in excess of ~~such~~ the limitation in 31330
order to provide the board of health with sufficient funds to 31331
carry out ~~such health~~ the program, including its costs of office
space and utilities. ~~Such~~ The resolution shall be filed with the 31332
board of elections not later than four p.m. of the seventy-fifth 31333
day before the day of the relevant primary or general election. 31334
31335

~~Such resolution and~~ shall specify the amount of increase in 31336
rate ~~which that~~ it is necessary to levy and the number of years 31337
during which ~~such~~ the increase ~~shall will~~ be in effect, which 31338
shall not be for a longer period than ten years. The 31339

~~The~~ resolution shall conform to section 5705.191 of the 31340
Revised Code and be certified and submitted in the manner provided 31341
in section 5705.25 of the Revised Code, provided that the proposal 31342
shall be placed on the ballot at the next primary or general 31343
election occurring more than seventy-five days after the 31344
resolution is filed with the board of elections. 31345

Sec. 3709.34. (A) ~~The board of county commissioners or the~~ 31346
legislative authority of any city may furnish suitable quarters 31347
for any board of health or health department having jurisdiction 31348
over all or a major part of ~~such county or~~ that city. 31349

(B)(1) Subject to division (B)(6) of this section, through 31350
fiscal year 2005, the board of county commissioners shall provide 31351
office space and utilities for the board of health having 31352
jurisdiction over the county's general health district. 31353

Thereafter, subject to division (B)(6) of this section, the board of county commissioners shall make payments as provided in divisions (B)(2) and (3) of this section for the office space and utilities until fiscal year 2010. Starting in fiscal year 2010, the board has no duty to provide office space or utilities, or to make payments for office space or utilities, for the board of health of the county's general health district.

(2)(a) Not later than the thirtieth day of September 2005, 2006, 2007, and 2008, the board of county commissioners shall make a written estimate of the total cost for the ensuing fiscal year to provide office space and utilities to the board of health of the county's general health district. The estimate of total cost shall include all of the following:

(i) The total square feet of space to be used by the board of health;

(ii) The total square feet of any common areas that should be reasonably allocated to the board of health and the method for making this allocation;

(iii) The actual cost per square foot for both the space used by and the common areas allocated to the board of health;

(iv) An explanation of the method used to determine the actual cost per square foot;

(v) The estimated cost of providing utilities, including an explanation of how this cost was determined;

(vi) Any other estimated costs the board of county commissioners anticipates will be incurred to provide office space and utilities to the board of health, including a detailed explanation of those costs and the rationale used to determine them.

(b) The board of county commissioners shall forward a copy of

the estimate of total cost to the director of the board of health 31384
not later than the fifth day of October 2005, 2006, 2007, and 31385
2008. The director shall review the estimate and notify the board 31386
of county commissioners not later than twenty days after its 31387
receipt of either agreement with it or any specific objections to 31388
it and the reasons for the objections. If the director agrees with 31389
the estimate, it shall become the final estimate of total cost. 31390
Failure of the director to make objections to the estimate by the 31391
twentieth day after its receipt shall be deemed to mean that the 31392
director is in agreement with the estimate. 31393

If the director timely provides specific objections to the 31394
board of county commissioners, the board shall review the 31395
objections and may modify the original estimate and send a revised 31396
estimate of total cost to the director within ten days after 31397
receipt of the objections. The director shall respond to a revised 31398
estimate within ten days after its receipt. If the director agrees 31399
with it, the revised estimate shall become the final estimate of 31400
total cost. If the director fails to respond within the ten-day 31401
period, the director shall be deemed to have agreed with the 31402
revised estimate. If the director disagrees with the revised 31403
estimate, the director shall send specific objections to the board 31404
of county commissioners within the ten-day period. 31405

(c) If the director sends specific objections to a revised 31406
estimate within the required time, or if there is no revised 31407
estimate and the director timely objected to the original 31408
estimate, the probate judge of the county shall determine the 31409
final estimate of total cost and certify this amount to the 31410
director and the board of county commissioners before the first 31411
day of January 2006, 2007, 2008, or 2009, as applicable. 31412

(3)(a) Subject to division (B)(6) of this section, a board of 31413
county commissioners shall be responsible for the following 31414
percentages of the final estimate of total cost established by 31415

<u>division (B)(2) of this section:</u>	31416
<u>(i) Eighty per cent for fiscal year 2006;</u>	31417
<u>(ii) Sixty per cent for fiscal year 2007;</u>	31418
<u>(iii) Forty per cent for fiscal year 2008;</u>	31419
<u>(iv) Twenty per cent for fiscal year 2009.</u>	31420
<u>(b) In fiscal years 2006, 2007, 2008, and 2009, the board of</u>	31421
<u>health of the county's general health district shall be</u>	31422
<u>responsible for the payment of the remainder of any costs incurred</u>	31423
<u>in excess of the amount payable under division (B)(3)(a)(i), (ii),</u>	31424
<u>(iii), or (iv) of this section, as applicable, for the provision</u>	31425
<u>of office space and utilities for the board of health, including</u>	31426
<u>any unanticipated or unexpected increases in costs beyond the</u>	31427
<u>final estimate of total cost.</u>	31428
<u>(c) Beginning in fiscal year 2010, the board of county</u>	31429
<u>commissioners has no obligation to provide office space or</u>	31430
<u>utilities, or to make payments for office space or utilities, for</u>	31431
<u>the board of health.</u>	31432
<u>(4) After fiscal year 2009, the board of county commissioners</u>	31433
<u>and the board of health of the county's general health district</u>	31434
<u>may enter into a contract for the board of county commissioners to</u>	31435
<u>provide office space for the use of the board of health and to</u>	31436
<u>provide utilities for that office space. The term of any such</u>	31437
<u>contract shall not exceed four years and may be renewed for</u>	31438
<u>additional periods not to exceed four years.</u>	31439
<u>(5) In any fiscal year, notwithstanding any contrary</u>	31440
<u>provision of divisions (B)(1) to (4) of this section, the board of</u>	31441
<u>county commissioners, in its discretion, may provide office space</u>	31442
<u>and utilities for the board of health of the county's general</u>	31443
<u>health district free of charge.</u>	31444
<u>(6) If the board of health of a general health district</u>	31445

rents, leases, lease-purchases, or otherwise acquires office space 31446
to facilitate the performance of its functions, or constructs, 31447
enlarges, renovates, or otherwise modifies buildings or other 31448
structures to provide office space to facilitate the performance 31449
of its functions, the board of county commissioners of the county 31450
served by the general health district has no further obligation 31451
under division (B) of this section to provide office space or 31452
utilities, or to make payments for office space or utilities, for 31453
the board of health, unless the board of county commissioners 31454
enters into a contract under division (B)(4) of this section or 31455
exercises its option under division (B)(5) of this section. 31456

Sec. 3712.03. (A) In accordance with Chapter 119. of the 31457
Revised Code, the public health council shall adopt, and may amend 31458
and rescind, rules: 31459

(1) Providing for the licensing of persons or public agencies 31460
providing hospice care programs within this state by the 31461
department of health and for the suspension and revocation of 31462
licenses; 31463

(2) Establishing a license fee and license renewal fee not to 31464
exceed three hundred dollars. The fees shall cover the three-year 31465
period during which an existing license is valid as provided in 31466
division (B) of section 3712.04 of the Revised Code. 31467

(3) Establishing an inspection fee not to exceed one thousand 31468
seven hundred fifty dollars; 31469

(4) Establishing requirements for hospice care program 31470
facilities and services; 31471

~~(4)~~(5) Providing for a waiver of the requirement for the 31472
provision of physical, occupational, or speech or language therapy 31473
contained in division (A)(2) of section 3712.01 of the Revised 31474
Code when the requirement would create a hardship because such 31475

therapy is not readily available in the geographic area served by 31476
the provider of a hospice care program; 31477

~~(5)~~(6) Providing for the granting of licenses to provide 31478
hospice care programs to persons and public agencies that are 31479
accredited or certified to provide such programs by an entity 31480
whose standards for accreditation or certification equal or exceed 31481
those provided for licensure under this chapter and rules adopted 31482
under it; and 31483

~~(6)~~(7) Establishing interpretive guidelines for each rule. 31484

(B) Subject to the approval of the controlling board, the 31485
public health council may establish fees in excess of the amounts 31486
provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised 31487
Code, provided that the fees do not exceed those amounts by 31488
greater than fifty per cent. 31489

(C) The department of health shall: 31490

(1) Grant, suspend, and revoke licenses for hospice care 31491
programs in accordance with this chapter and rules adopted under 31492
it; 31493

(2) Make such inspections as are necessary to determine 31494
whether hospice care program facilities and services meet the 31495
requirements of this chapter and rules adopted under it; and 31496

(3) Implement and enforce this chapter and rules adopted 31497
under it. 31498

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 31499
health and the environmental protection agency in administering 31500
and enforcing this chapter and rules adopted under it, there is 31501
hereby levied on the disposal of construction and demolition 31502
debris at a construction and demolition debris facility that is 31503
licensed under this chapter or at a solid waste facility that is 31504
licensed under Chapter 3734. of the Revised Code a fee of thirty 31505

cents per cubic yard or sixty cents per ton, as applicable. 31506

(2) The owner or operator of a construction and demolition 31507
debris facility or a solid waste facility shall determine if cubic 31508
yards or tons will be used as the unit of measurement. In 31509
estimating the fee based on cubic yards, the owner or operator 31510
shall utilize either the maximum cubic yard capacity of the 31511
container, or the hauling volume of the vehicle, that transports 31512
the construction and demolition debris to the facility or the 31513
cubic yards actually logged for disposal by the owner or operator 31514
in accordance with rules adopted under section 3714.02 of the 31515
Revised Code. If basing the fee on tonnage, the owner or operator 31516
shall use certified scales to determine the tonnage of 31517
construction and demolition debris that is transported to the 31518
facility for disposal. 31519

(3) The owner or operator of a construction and demolition 31520
debris facility or a solid waste facility shall collect the fee 31521
levied under division (A) of this section as a trustee for the 31522
health district having jurisdiction over the facility, if that 31523
district is on the approved list under section 3714.09 of the 31524
Revised Code, or for the state. The owner or operator shall 31525
prepare and file with the appropriate board of health or the 31526
director of environmental protection monthly returns indicating 31527
the total volume or weight, as applicable, of construction and 31528
demolition debris received for disposal at the facility and the 31529
total amount of money required to be collected on the construction 31530
and demolition debris disposed of during that month. Not later 31531
than thirty days after the last day of the month to which the 31532
return applies, the owner or operator shall mail to the board of 31533
health or the director the return for that month together with the 31534
money required to be collected on the construction and demolition 31535
debris disposed of during that month. The owner or operator may 31536
request, in writing, an extension of not more than thirty days 31537

after the last day of the month to which the return applies. A 31538
request for extension may be denied. If the owner or operator 31539
submits the money late, the owner or operator shall pay a penalty 31540
of ten per cent of the amount of the money due for each month that 31541
it is late. 31542

(4) Of the money that is collected from a construction and 31543
demolition debris facility or a solid waste facility on a per 31544
cubic yard or per ton basis under this section, a board of health 31545
shall transmit three cents per cubic yard or six cents per ton, as 31546
applicable, to the director not later than forty-five days after 31547
the receipt of the money. The money retained by a board of health 31548
under this section shall be paid into a special fund, which is 31549
hereby created in each health district, and used solely to 31550
administer and enforce this chapter and rules adopted under it. 31551

The director shall transmit all money received from the 31552
boards of health of health districts under this section and all 31553
money from the disposal fee collected by the director under this 31554
section to the treasurer of state to be credited to the 31555
construction and demolition debris facility oversight fund, which 31556
is hereby created in the state treasury. The fund shall be 31557
administered by the director, and money credited to the fund shall 31558
be used exclusively for the administration and enforcement of this 31559
chapter and rules adopted under it. 31560

(B) The board of health of a health district or the director 31561
may enter into an agreement with the owner or operator of a 31562
construction and demolition debris facility or a solid waste 31563
facility for the quarterly payment of the money collected from the 31564
disposal fee. The board of health shall notify the director of any 31565
such agreement. Not later than forty-five days after receipt of 31566
the quarterly payment, the board of health shall transmit the 31567
amount established in division (A)~~(5)~~(4) of this section to the 31568
director. The money retained by the board of health shall be 31569

deposited in the special fund of the district as required under 31570
that division. Upon receipt of the money from a board of health, 31571
the director shall transmit the money to the treasurer of state to 31572
be credited to the construction and demolition debris facility 31573
oversight fund. 31574

(C) If a construction and demolition debris facility or a 31575
solid waste facility is located within the territorial boundaries 31576
of a municipal corporation or the unincorporated area of a 31577
township, the municipal corporation or township may appropriate up 31578
to four cents per cubic yard or up to eight cents per ton of the 31579
disposal fee required to be paid by the facility under division 31580
(A) of this section for the same purposes that a municipal 31581
corporation or township may levy a fee under division (C) of 31582
section 3734.57 of the Revised Code. 31583

The legislative authority of the municipal corporation or 31584
township may appropriate the money from the fee by enacting an 31585
ordinance or adopting a resolution establishing the amount of the 31586
fee to be appropriated. Upon doing so, the legislative authority 31587
shall mail a certified copy of the ordinance or resolution to the 31588
board of health of the health district in which the construction 31589
and demolition debris facility or the solid waste facility is 31590
located or, if the facility is located in a health district that 31591
is not on the approved list under section 3714.09 of the Revised 31592
Code, to the director. Upon receipt of the copy of the ordinance 31593
or resolution and not later than forty-five days after receipt of 31594
money collected from the fee, the board or the director, as 31595
applicable, shall transmit to the treasurer or other appropriate 31596
officer of the municipal corporation or clerk of the township that 31597
portion of the money collected from the disposal fee by the owner 31598
or operator of the facility that is required by the ordinance or 31599
resolution to be paid to that municipal corporation or township. 31600

Money received by the treasurer or other appropriate officer 31601

of a municipal corporation under this division shall be paid into 31602
the general fund of the municipal corporation. Money received by 31603
the clerk of a township under this division shall be paid into the 31604
general fund of the township. The treasurer or other officer of 31605
the municipal corporation or the clerk of the township, as 31606
appropriate, shall maintain separate records of the money received 31607
under this division. 31608

The legislative authority of a municipal corporation or 31609
township may cease collecting money under this division by 31610
repealing the ordinance or resolution that was enacted or adopted 31611
under this division. 31612

(D) The board of county commissioners of a county in which a 31613
construction and demolition debris facility or a solid waste 31614
facility is located may appropriate up to three cents per cubic 31615
yard or up to six cents per ton of the disposal fee required to be 31616
paid by the facility under division (A) of this section for the 31617
same purposes that a solid waste management district may levy a 31618
fee under division (B) of section 3734.57 of the Revised Code. 31619

The board of county commissioners may appropriate the money 31620
from the fee by adopting a resolution establishing the amount of 31621
the fee to be appropriated. Upon doing so, the board of county 31622
commissioners shall mail a certified copy of the resolution to the 31623
board of health of the health district in which the construction 31624
and demolition debris facility or the solid waste facility is 31625
located or, if the facility is located in a health district that 31626
is not on the approved list under section 3714.09 of the Revised 31627
Code, to the director. Upon receipt of the copy of the resolution 31628
and not later than forty-five days after receipt of money 31629
collected from the fee, the board of health or the director, as 31630
applicable, shall transmit to the treasurer of the county that 31631
portion of the money collected from the disposal fee by the owner 31632
or operator of the facility that is required by the resolution to 31633

be paid to that county. 31634

Money received by a county treasurer under this division 31635
shall be paid into the general fund of the county. The county 31636
treasurer shall maintain separate records of the money received 31637
under this division. 31638

A board of county commissioners may cease collecting money 31639
under this division by repealing the resolution that was adopted 31640
under this division. 31641

(E)(1) This section does not apply to the disposal of 31642
construction and demolition debris at a solid waste facility that 31643
is licensed under Chapter 3734. of the Revised Code if there is no 31644
construction and demolition debris facility licensed under this 31645
chapter within ~~forty~~ thirty-five miles of the solid waste facility 31646
as determined by a facility's property boundaries. 31647

(2) This section does not apply to the disposal of 31648
construction and demolition debris at a solid waste facility that 31649
is licensed under Chapter 3734. of the Revised Code if the owner 31650
or operator of the facility chooses to collect fees on the 31651
disposal of the construction and demolition debris that are 31652
identical to the fees that are collected under Chapters 343. and 31653
3734. of the Revised Code on the disposal of solid wastes at that 31654
facility. 31655

Sec. 3714.073. (A) In addition to the fee levied under 31656
division (A)(1) of section 3714.07 of the Revised Code, beginning 31657
July 1, 2005, there is hereby levied on the disposal of 31658
construction and demolition debris at a construction and 31659
demolition debris facility that is licensed under this chapter or 31660
at a solid waste facility that is licensed under Chapter 3734. of 31661
the Revised Code a fee of twelve and one-half cents per cubic yard 31662
or twenty-five cents per ton, as applicable. 31663

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fee levied under this section and remit the money from the fee in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section. 31664
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(C) Of the money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section, the board or the director shall transmit the money to the treasurer of state to be credited to the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code. 31670
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Sec. 3715.04. (A) As used in this section: 31677

(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of agriculture. Other names of documents that are synonymous with "certificate of health and freesale" include, but are not limited to, "sanitary certificate of health and freesale"; "certificate of origin"; "certificate of freesale"; "certificate of health and origin"; "certificate of freesale, sanitary and purity"; and "certificate of freesale, health and origin." 31678
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(2) "Food processing establishment" has the same meaning as in section 3715.021 of the Revised Code. 31691
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(B) Upon the request of a food processing establishment, 31693

manufacturer of over-the-counter drugs, or manufacturer of 31694
cosmetics, the director may issue a certificate of health and 31695
freesale after determining that conditions at the establishment or 31696
place of business of the manufacturer, as applicable, have been 31697
found to be sanitary through an inspection conducted pursuant to 31698
this chapter. For each certificate issued, the director shall 31699
charge the establishment or manufacturer a fee in the amount of 31700
twenty dollars. The director shall deposit all fees collected 31701
under this section to the credit of the food safety fund created 31702
in section 915.24 of the Revised Code. 31703

Sec. 3719.47. (A) As used in this section: 31704

(1) "Consumer product" means any food or drink that is 31705
consumed or used by humans and any drug, including a drug that may 31706
be provided legally only pursuant to a prescription, that is 31707
intended to be consumed or used by humans. 31708

(2) "Drug," "licensed health professional authorized to 31709
prescribe drugs," "prescription," and "terminal distributor of 31710
dangerous drugs" have the same meanings as in section 4729.01 of 31711
the Revised Code. 31712

(3) "Pharmacist" means a person licensed under Chapter 4729. 31713
of the Revised Code to engage in the practice of pharmacy. 31714

(4) "Proof of age" means a driver's license, a commercial 31715
driver's license, a military identification card, a passport, or 31716
an identification card issued under sections 4507.50 to 4507.52 of 31717
the Revised Code that shows a person is eighteen years of age or 31718
older. 31719

(5) "Pseudoephedrine" means any material, compound, mixture, 31720
or preparation that contains any quantity of pseudoephedrine, any 31721
of its salts, optical isomers, or salts of optical isomers. 31722

(6) "Pseudoephedrine product" means a consumer product 31723

<u>consisting of a single-ingredient preparation of pseudoephedrine</u>	31724
<u>in which pseudoephedrine is the active ingredient.</u>	31725
<u>(7) "Retailer" means a place of business that offers consumer</u>	31726
<u>products for sale to the general public.</u>	31727
<u>(8) "Single-ingredient preparation" means a compound,</u>	31728
<u>mixture, preparation, or substance that contains a single active</u>	31729
<u>ingredient.</u>	31730
<u>(B) A retailer or terminal distributor of dangerous drugs</u>	31731
<u>that sells, offers to sell, holds for sale, delivers, or otherwise</u>	31732
<u>provides a pseudoephedrine product to the public shall do all of</u>	31733
<u>the following:</u>	31734
<u>(1) Segregate pseudoephedrine products from other merchandise</u>	31735
<u>so that no member of the public may procure or purchase such</u>	31736
<u>products without the direct assistance of a pharmacist or other</u>	31737
<u>authorized employee of the retailer or terminal distributor;</u>	31738
<u>(2) With regard to each time a pseudoephedrine product is</u>	31739
<u>sold or otherwise provided:</u>	31740
<u>(a) Determine, by examination of a valid proof of age, that</u>	31741
<u>the purchaser or recipient is at least eighteen years of age;</u>	31742
<u>(b) Make a reasonable attempt to ensure that no individual</u>	31743
<u>purchases or receives more than the lesser of two product units or</u>	31744
<u>six grams of pseudoephedrine products within a thirty-day period.</u>	31745
<u>(C)(1) Except as provided in division (C)(2) of this section,</u>	31746
<u>no retailer or terminal distributor of dangerous drugs shall</u>	31747
<u>knowingly sell, offer to sell, hold for sale, deliver, or</u>	31748
<u>otherwise provide to any individual an amount of pseudoephedrine</u>	31749
<u>product that is greater than the lesser of two packages or six</u>	31750
<u>grams within a thirty-day period.</u>	31751
<u>(2) This division does not apply to any quantity of</u>	31752
<u>pseudoephedrine product dispensed by a pharmacist pursuant to a</u>	31753

valid prescription issued by a licensed health professional 31754
authorized to prescribe drugs. 31755

(D)(1) Except as provided in division (D)(2) of this section, 31756
no retailer or terminal distributor of dangerous drugs shall sell, 31757
offer to sell, hold for sale, deliver, or otherwise provide any 31758
pseudoephedrine product to an individual who is under eighteen 31759
years of age. 31760

(2) This division does not apply to any of the following: 31761

(a) A licensed health professional authorized to prescribe 31762
drugs or a pharmacist who dispenses, sells, or otherwise provides 31763
a pseudoephedrine product to an individual under eighteen years of 31764
age; 31765

(b) A parent or guardian of an individual under eighteen 31766
years of age who provides a pseudoephedrine product to the 31767
individual; 31768

(c) A person who, as authorized by the individual's parent or 31769
guardian, dispenses, sells, or otherwise provides a 31770
pseudoephedrine product to an individual under eighteen years of 31771
age. 31772

(E) No employee of a retailer or terminal distributor of 31773
dangerous drugs who is under eighteen years of age shall sell, 31774
offer to sell, hold for sale, deliver, or otherwise provide any 31775
pseudoephedrine product to any individual. 31776

(F) Prescriptions, orders, and records maintained pursuant to 31777
this section and stocks of pseudoephedrine products shall be open 31778
for inspection to federal, state, county, and municipal officers, 31779
and employees of the state board of pharmacy whose duty it is to 31780
enforce the laws of this state or of the United States relating to 31781
controlled substances. Such prescriptions, orders, records, and 31782
stocks shall be open for inspection by the state medical board and 31783

its employees for purposes of enforcing Chapter 4731. of the 31784
Revised Code. No person having knowledge of any such prescription, 31785
order, or record shall divulge that knowledge, except in 31786
connection with a prosecution or proceeding in court or before a 31787
licensing board or officer, to which prosecution or proceeding the 31788
person to whom the prescriptions, orders, or records relate is a 31789
party. 31790

(G) The state board of pharmacy may, by rule adopted in 31791
accordance with Chapter 119. of the Revised Code, exempt from this 31792
section pseudoephedrine products that the board finds are not used 31793
in the illegal manufacture of methamphetamine. The board may 31794
exempt a pseudoephedrine product from this section if the product 31795
is determined by the board to have been formulated in such a way 31796
as to effectively prevent the conversion of the active ingredient 31797
into methamphetamine. 31798

Sec. 3719.48. (A) As used in this section, "consumer 31799
product," "ephedrine," "ephedrine product," "phenylpropanolamine," 31800
"phenylpropanolamine product," "pseudoephedrine," "pseudoephedrine 31801
product," "retailer," and "single-ingredient preparation" have the 31802
same meanings as in section 2925.01 of the Revised Code. 31803

(B) Each retailer, terminal distributor of dangerous drugs, 31804
pharmacy, prescriber, or wholesaler that sells, offers to sell, 31805
holds for sale, delivers, or otherwise provides any ephedrine 31806
product, phenylpropanolamine product, or pseudoephedrine product 31807
and that discovers the theft or significant loss of more than six 31808
grams of any ephedrine product, phenylpropanolamine product, or 31809
pseudoephedrine product, or combination of those products, 31810
immediately shall notify the state board of pharmacy of the theft 31811
or loss. The retailer, terminal distributor, pharmacy, prescriber, 31812
or wholesaler initially shall make the report by telephone and, 31813
within thirty days after making that report, shall send a written 31814

report to the state board of pharmacy. The report shall identify 31815
the product that was stolen or lost, the amount of the product 31816
stolen or lost, and the date and time of the discovery of the 31817
theft or loss. 31818

(C) Upon receipt of a report under division (B) of this 31819
section made by telephone, the state board of pharmacy immediately 31820
shall notify all of the following of the theft or loss covered by 31821
the report: 31822

(1) The sheriff of the county in which is located the 31823
retailer, terminal distributor, pharmacy, prescriber, or 31824
wholesaler that made the report to the state board; 31825

(2) If the retailer, terminal distributor, pharmacy, 31826
prescriber, or wholesaler that made the report to the state board 31827
is located in a municipal corporation, the police department, 31828
marshal, or other law enforcement agency of that municipal 31829
corporation. 31830

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 31831
3721.99 of the Revised Code: 31832

(1)(a) "Home" means an institution, residence, or facility 31833
that provides, for a period of more than twenty-four hours, 31834
whether for a consideration or not, accommodations to three or 31835
more unrelated individuals who are dependent upon the services of 31836
others, including a nursing home, residential care facility, home 31837
for the aging, and a veterans' home operated under Chapter 5907. 31838
of the Revised Code. 31839

(b) "Home" also means both of the following: 31840

(i) Any facility that a person, as defined in section 3702.51 31841
of the Revised Code, proposes for certification as a skilled 31842
nursing facility or nursing facility under Title XVIII or XIX of 31843
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 31844

as amended, and for which a certificate of need, other than a 31845
certificate to recategorize hospital beds as described in section 31846
3702.522 of the Revised Code or division (R)(7)(d) of the version 31847
of section 3702.51 of the Revised Code in effect immediately prior 31848
to April 20, 1995, has been granted to the person under sections 31849
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 31850

(ii) A county home or district home that is or has been 31851
licensed as a residential care facility. 31852

(c) "Home" does not mean any of the following: 31853

(i) Except as provided in division (A)(1)(b) of this section, 31854
a public hospital or hospital as defined in section 3701.01 or 31855
5122.01 of the Revised Code; 31856

(ii) A residential facility for mentally ill persons as 31857
defined under section 5119.22 of the Revised Code; 31858

(iii) A residential facility as defined in section 5123.19 of 31859
the Revised Code; 31860

(iv) ~~A habilitation center as defined in section 5123.041 of~~ 31861
~~the Revised Code;~~ 31862

~~(v)~~ A community alternative home as defined in section 31863
3724.01 of the Revised Code; 31864

~~(vi)~~(v) An adult care facility as defined in section 3722.01 31865
of the Revised Code; 31866

~~(vii)~~(vi) An alcohol or drug addiction program as defined in 31867
section 3793.01 of the Revised Code; 31868

~~(viii)~~(vii) A facility licensed to provide methadone 31869
treatment under section 3793.11 of the Revised Code; 31870

~~(ix)~~(viii) A facility providing services under contract with 31871
the department of mental retardation and developmental 31872
disabilities under section 5123.18 of the Revised Code; 31873

(x) (ix) A facility operated by a hospice care program	31874
licensed under section 3712.04 of the Revised Code that is used	31875
exclusively for care of hospice patients;	31876
(xi) (x) A facility, infirmary, or other entity that is	31877
operated by a religious order, provides care exclusively to	31878
members of religious orders who take vows of celibacy and live by	31879
virtue of their vows within the orders as if related, and does not	31880
participate in the medicare program established under Title XVIII	31881
of the "Social Security Act" or the medical assistance program	31882
established under Chapter 5111. of the Revised Code and Title XIX	31883
of the "Social Security Act," if on January 1, 1994, the facility,	31884
infirmary, or entity was providing care exclusively to members of	31885
the religious order;	31886
(xii) (xi) A county home or district home that has never been	31887
licensed as a residential care facility.	31888
(2) "Unrelated individual" means one who is not related to	31889
the owner or operator of a home or to the spouse of the owner or	31890
operator as a parent, grandparent, child, grandchild, brother,	31891
sister, niece, nephew, aunt, uncle, or as the child of an aunt or	31892
uncle.	31893
(3) "Mental impairment" does not mean mental illness as	31894
defined in section 5122.01 of the Revised Code or mental	31895
retardation as defined in section 5123.01 of the Revised Code.	31896
(4) "Skilled nursing care" means procedures that require	31897
technical skills and knowledge beyond those the untrained person	31898
possesses and that are commonly employed in providing for the	31899
physical, mental, and emotional needs of the ill or otherwise	31900
incapacitated. "Skilled nursing care" includes, but is not limited	31901
to, the following:	31902
(a) Irrigations, catheterizations, application of dressings,	31903
and supervision of special diets;	31904

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;	31905 31906 31907
(c) Special procedures contributing to rehabilitation;	31908
(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;	31909 31910 31911
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	31912 31913 31914
(5)(a) "Personal care services" means services including, but not limited to, the following:	31915 31916
(i) Assisting residents with activities of daily living;	31917
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	31918 31919 31920
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.	31921 31922 31923 31924
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.	31925 31926 31927 31928 31929
(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and	31930 31931 31932 31933 31934

skilled nursing care. 31935

(7) "Residential care facility" means a home that provides 31936
either of the following: 31937

(a) Accommodations for seventeen or more unrelated 31938
individuals and supervision and personal care services for three 31939
or more of those individuals who are dependent on the services of 31940
others by reason of age or physical or mental impairment; 31941

(b) Accommodations for three or more unrelated individuals, 31942
supervision and personal care services for at least three of those 31943
individuals who are dependent on the services of others by reason 31944
of age or physical or mental impairment, and, to at least one of 31945
those individuals, any of the skilled nursing care authorized by 31946
section 3721.011 of the Revised Code. 31947

(8) "Home for the aging" means a home that provides services 31948
as a residential care facility and a nursing home, except that the 31949
home provides its services only to individuals who are dependent 31950
on the services of others by reason of both age and physical or 31951
mental impairment. 31952

The part or unit of a home for the aging that provides 31953
services only as a residential care facility is licensed as a 31954
residential care facility. The part or unit that may provide 31955
skilled nursing care beyond the extent authorized by section 31956
3721.011 of the Revised Code is licensed as a nursing home. 31957

(9) "County home" and "district home" mean a county home or 31958
district home operated under Chapter 5155. of the Revised Code. 31959

(B) The public health council may further classify homes. For 31960
the purposes of this chapter, any residence, institution, hotel, 31961
congregate housing project, or similar facility that meets the 31962
definition of a home under this section is such a home regardless 31963
of how the facility holds itself out to the public. 31964

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.03. The (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of 31995
sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised 31996
Code and may issue orders to secure compliance with the provisions 31997
of these sections and the rules adopted under them. The director 31998
may hold hearings, issue subpoenas, compel testimony, and make 31999
adjudications. ~~In~~ 32000

The director may issue an order revoking a license in 32001
the event the director finds, upon hearing or opportunity afforded 32002
~~therefor~~ pursuant to Chapter 119. of the Revised Code, that any of 32003
the following apply to a person, firm, partnership, association, 32004
~~corporation~~, county home, or district home licensed under section 32005
3721.07 of the Revised Code ~~is in violation of:~~ 32006

(1) Has violated any of the provisions of Chapter 3721. of 32007
the Revised Code or rules adopted by the public health council 32008
under it; ~~is in violation of~~ 32009

(2) Has violated any order issued by the director; ~~is~~ 32010

(3) Is not, or any of its principals are not suitable, 32011
morally or financially to operate such an institution; ~~or is~~ 32012

(4) Is not furnishing humane, kind, and adequate treatment 32013
and care, ~~the director may issue an order revoking the license~~ 32014
~~previously issued by the director;~~ 32015

(5) Has had a long-standing pattern of violations of this 32016
chapter or the rules adopted under it that has caused physical, 32017
emotional, mental, or psychosocial harm to one or more residents. 32018
~~Upon~~ 32019

Upon the issuance of any order of revocation, the person 32020
whose license is revoked, or the county home or district home that 32021
has its license revoked, may appeal in accordance with Chapter 32022
119. of the Revised Code. 32023

~~The state fire marshal shall enforce all statutes and rules~~ 32024

~~pertaining to fire safety in homes and shall adopt rules 32025~~
~~pertaining to fire safety in homes as the marshal determines 32026~~
~~necessary. The rules adopted by the marshal shall be in addition 32027~~
~~to those fire safety rules that the board of building standards 32028~~
~~and the public health council are empowered to adopt and shall be 32029~~
~~adopted prior to December 31, 1972. In the event of a dispute 32030~~
~~between the marshal and another officer having responsibilities 32031~~
~~under sections 3721.01 to 3721.09 of the Revised Code with respect 32032~~
~~to the interpretation or application of a specific fire safety 32033~~
~~statute or rule, the interpretation of the marshal shall prevail. 32034~~

~~If the ownership of a home is assigned or transferred to a 32035~~
~~different person, the new owner is responsible and liable for 32036~~
~~compliance with any notice of proposed action or order issued 32037~~
~~under this section in accordance with Chapter 119. of the Revised 32038~~
~~Code prior to the effective date of the assignment or transfer (C) 32039~~
~~Once the director notifies a person, county home, or district home 32040~~
~~licensed to operate a home that the license may be revoked or 32041~~
~~issues any order under this section, the person, county home, or 32042~~
~~district home shall not assign or transfer to another person or 32043~~
~~entity the right to operate the home. This prohibition shall 32044~~
~~remain in effect until proceedings under Chapter 119. of the 32045~~
~~Revised Code concerning the order or license revocation have been 32046~~
~~concluded or the director notifies the person, county home, or 32047~~
~~district home that the prohibition has been lifted. 32048~~

~~If a license is revoked under this section, the former 32049~~
~~license holder shall not assign or transfer or consent to 32050~~
~~assignment or transfer of the right to operate the home. Any 32051~~
~~attempted assignment or transfer to another person or entity is 32052~~
~~void. 32053~~

~~On revocation of a license, the former licensee shall take 32054~~
~~all necessary steps to cease operation of the home. 32055~~

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section. 32056
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Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail. 32060
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Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with: 32071
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(A) The applicant has not been convicted of a felony or a crime involving moral turpitude; 32079
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(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health; 32081
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(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of 32084
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any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

~~(D)~~(E) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and adequate treatment and care;

~~(F)~~(G) The home does not maintain or contain:

(1) Facilities for the performance of major surgical procedures;

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state;

(5) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state.

~~(G)~~(H) The home does not accept or treat outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient

guests, other than participants in an adult day-care program, for 32116
twenty-four hours or less; 32117

~~(H)~~(I) The home is in compliance with sections 3721.28 and 32118
3721.29 of the Revised Code. 32119

When the director issues a license, the license shall remain 32120
in effect until revoked by the director or voided at the request 32121
of the applicant; provided, there shall be an annual renewal fee 32122
payable during the month of January of each calendar year. Any 32123
licensed home that does not pay its renewal fee in January shall 32124
pay, beginning the first day of February, a late fee of one 32125
hundred dollars for each week or part thereof that the renewal fee 32126
is not paid. If either the renewal fee or the late fee is not paid 32127
by the fifteenth day of February, the director may, in accordance 32128
with Chapter 119. of the Revised Code, revoke the home's license. 32129

If, under division (B)(5) of section 3721.03 of the Revised 32130
Code, the license of a person has been revoked or the license of a 32131
county home or district home to operate as a residential care 32132
facility has been revoked, the director of health shall not issue 32133
a license to the person or home at any time. A person whose 32134
license is revoked, and a county home or district home that has 32135
its license as a residential care facility revoked other than 32136
under division (B)(5) of section 3721.03 of the Revised Code, for 32137
any reason other than nonpayment of the license renewal fee or 32138
late fees ~~may shall~~ not ~~apply for~~ be issued a new license under 32139
this chapter until a period of one year following the date of 32140
revocation has elapsed. 32141

Any applicant who is denied a license may appeal in 32142
accordance with Chapter 119. of the Revised Code. 32143

Sec. 3721.15. (A) Authorization from a resident or a sponsor 32144
with a power of attorney for a home to manage the resident's 32145
financial affairs shall be in writing and shall be attested to by 32146

a witness who is not connected in any manner whatsoever with the 32147
home or its administrator. The home shall maintain accounts 32148
pursuant to division (A)(27) of section 3721.13 of the Revised 32149
Code. Upon the resident's transfer, discharge, or death, the 32150
account shall be closed and a final accounting made. All remaining 32151
funds shall be returned to the resident or resident's sponsor, 32152
except in the case of death, when all remaining funds shall be 32153
transferred or used in accordance with section ~~5111.112~~ 5111.113 32154
of the Revised Code. 32155

(B) A home that manages a resident's financial affairs shall 32156
deposit the resident's funds in excess of one hundred dollars, and 32157
may deposit the resident's funds that are one hundred dollars or 32158
less, in an interest-bearing account separate from any of the 32159
home's operating accounts. Interest earned on the resident's funds 32160
shall be credited to the resident's account. A resident's funds 32161
that are one hundred dollars or less and have not been deposited 32162
in an interest-bearing account may be deposited in a 32163
noninterest-bearing account or petty cash fund. 32164

(C) Each resident whose financial affairs are managed by a 32165
home shall be promptly notified by the home when the total of the 32166
amount of funds in the resident's accounts and the petty cash fund 32167
plus other nonexempt resources reaches two hundred dollars less 32168
than the maximum amount permitted a recipient of medicaid. The 32169
notice shall include an explanation of the potential effect on the 32170
resident's eligibility for medicaid if the amount in the 32171
resident's accounts and the petty cash fund, plus the value of 32172
other nonexempt resources, exceeds the maximum assets a medicaid 32173
recipient may retain. 32174

(D) Each home that manages the financial affairs of residents 32175
shall purchase a surety bond or otherwise provide assurance 32176
satisfactory to the director of health, or, in the case of a home 32177
that participates in the medicaid program, to the director of job 32178

and family services, to assure the security of all residents' 32179
funds managed by the home. 32180

Sec. 3721.19. (A) As used in this section: 32181

(1) "Home" and "residential care facility" have the same 32182
meanings as in section 3721.01 of the Revised Code; 32183

(2) "Sponsor" and "residents' rights advocate" have the same 32184
meanings as in section 3721.10 of the Revised Code. 32185

A home licensed under this chapter that is not a party to a 32186
provider agreement, as defined in section 5111.20 of the Revised 32187
Code, shall provide each prospective resident, before admission, 32188
with the following information, orally and in a separate written 32189
notice on which is printed in a conspicuous manner: "This home is 32190
not a participant in the medical assistance program administered 32191
by the Ohio department of job and family services. Consequently, 32192
you may be discharged from this home if you are unable to pay for 32193
the services provided by this home." 32194

If the prospective resident has a sponsor whose identity is 32195
made known to the home, the home shall also inform the sponsor, 32196
before admission of the resident, of the home's status relative to 32197
the medical assistance program. Written acknowledgement of the 32198
receipt of the information shall be provided by the resident and, 32199
if the prospective resident has a sponsor who has been identified 32200
to the home, by the sponsor. The written acknowledgement shall be 32201
made part of the resident's record by the home. 32202

No home shall terminate its status as a provider under the 32203
~~medical assistance~~ medicaid program unless it has complied with 32204
section 5111.66 of the Revised Code and, at least ninety days 32205
prior to such termination, provided written notice to the 32206
~~department of job and family services and~~ residents of the home 32207
and their sponsors of such action. This requirement shall not 32208

apply in cases where the department of job and family services 32209
terminates a home's provider agreement or provider status. 32210

(B) A home licensed under this chapter as a residential care 32211
facility shall provide notice to each prospective resident or the 32212
individual's sponsor of the services offered by the facility and 32213
the types of skilled nursing care that the facility may provide. A 32214
residential care facility that, pursuant to section 3721.012 of 32215
the Revised Code, has a policy of entering into risk agreements 32216
with residents or their sponsors shall provide each prospective 32217
resident or the individual's sponsor a written explanation of the 32218
policy and the provisions that may be contained in a risk 32219
agreement. At the time the information is provided, the facility 32220
shall obtain a statement signed by the individual receiving the 32221
information acknowledging that the individual received the 32222
information. The facility shall maintain on file the individual's 32223
signed statement. 32224

(C) A resident has a cause of action against a home for 32225
breach of any duty imposed by this section. The action may be 32226
commenced by the resident, or on the resident's behalf by the 32227
resident's sponsor or a residents' rights advocate, by the filing 32228
of a civil action in the court of common pleas of the county in 32229
which the home is located, or in the court of common pleas of 32230
Franklin county. 32231

If the court finds that a breach of any duty imposed by this 32232
section has occurred, the court shall enjoin the home from 32233
discharging the resident from the home until arrangements 32234
satisfactory to the court are made for the orderly transfer of the 32235
resident to another mode of health care including, but not limited 32236
to, another home, and may award the resident and a person or 32237
public agency that brings an action on behalf of a resident 32238
reasonable attorney's fees. If a home discharges a resident to 32239
whom or to whose sponsor information concerning its status 32240

relative to the medical assistance program was not provided as 32241
required under this section, the court shall grant any appropriate 32242
relief including, but not limited to, actual damages, reasonable 32243
attorney's fees, and costs. 32244

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 32245
Revised Code: 32246

(A) "Long-term care facility" means either of the following: 32247

(1) A nursing home as defined in section 3721.01 of the 32248
Revised Code, other than a nursing home or part of a nursing home 32249
certified as an intermediate care facility for the mentally 32250
retarded under Title XIX of the "Social Security Act," 49 Stat. 32251
620 (1935), 42 U.S.C.A. 301, as amended; 32252

(2) A facility or part of a facility that is certified as a 32253
skilled nursing facility or a nursing facility under Title XVIII 32254
or XIX of the "Social Security Act." 32255

(B) "Residential care facility" has the same meaning as in 32256
section 3721.01 of the Revised Code. 32257

(C) "Abuse" means knowingly causing physical harm or 32258
recklessly causing serious physical harm to a resident by physical 32259
contact with the resident or by use of physical or chemical 32260
restraint, medication, or isolation as punishment, for staff 32261
convenience, excessively, as a substitute for treatment, or in 32262
amounts that preclude habilitation and treatment. 32263

(D) "Neglect" means recklessly failing to provide a resident 32264
with any treatment, care, goods, or service necessary to maintain 32265
the health or safety of the resident when the failure results in 32266
serious physical harm to the resident. "Neglect" does not include 32267
allowing a resident, at the resident's option, to receive only 32268
treatment by spiritual means through prayer in accordance with the 32269
tenets of a recognized religious denomination. 32270

(E) "Misappropriation" means depriving, defrauding, or 32271
otherwise obtaining the real or personal property of a resident by 32272
any means prohibited by the Revised Code, including violations of 32273
Chapter 2911. or 2913. of the Revised Code. 32274

(F) "Resident" includes a resident, patient, former resident 32275
or patient, or deceased resident or patient of a long-term care 32276
facility or a residential care facility. 32277

(G) "Physical restraint" has the same meaning as in section 32278
3721.10 of the Revised Code. 32279

(H) "Chemical restraint" has the same meaning as in section 32280
3721.10 of the Revised Code. 32281

(I) "Nursing and nursing-related services" means the personal 32282
care services and other services not constituting skilled nursing 32283
care that are specified in rules the public health council shall 32284
adopt in accordance with Chapter 119. of the Revised Code. 32285

(J) "Personal care services" has the same meaning as in 32286
section 3721.01 of the Revised Code. 32287

(K)(1) Except as provided in division (K)(2) of this section, 32288
"Nurse nurse aide" means an individual, ~~other than a licensed~~ 32289
~~health professional practicing within the scope of the~~ 32290
~~professional's license,~~ who provides nursing and nursing-related 32291
services to residents in a long-term care facility, either as a 32292
member of the staff of the facility for monetary compensation or 32293
as a volunteer without monetary compensation. 32294

(2) "Nurse aide" does not include either of the following: 32295

(a) A licensed health professional practicing within the 32296
scope of the professional's license; 32297

(b) An individual providing nursing and nursing-related 32298
services in a religious nonmedical health care facility, if the 32299
individual has been trained in the principles of nonmedical care 32300

<u>and is recognized by the facility as being competent in the</u>	32301
<u>administration of care within the religious tenets practiced by</u>	32302
<u>the residents of the facility.</u>	32303
(L) "Licensed health professional" means all of the	32304
following:	32305
(1) An occupational therapist or occupational therapy	32306
assistant licensed under Chapter 4755. of the Revised Code;	32307
(2) A physical therapist or physical therapy assistant	32308
licensed under Chapter 4755. of the Revised Code;	32309
(3) A physician authorized under Chapter 4731. of the Revised	32310
Code to practice medicine and surgery, osteopathic medicine and	32311
surgery, or podiatry;	32312
(4) A physician assistant authorized under Chapter 4730. of	32313
the Revised Code to practice as a physician assistant;	32314
(5) A registered nurse or licensed practical nurse licensed	32315
under Chapter 4723. of the Revised Code;	32316
(6) A social worker or independent social worker licensed	32317
under Chapter 4757. of the Revised Code or a social work assistant	32318
registered under that chapter;	32319
(7) A speech-language pathologist or audiologist licensed	32320
under Chapter 4753. of the Revised Code;	32321
(8) A dentist or dental hygienist licensed under Chapter	32322
4715. of the Revised Code;	32323
(9) An optometrist licensed under Chapter 4725. of the	32324
Revised Code;	32325
(10) A pharmacist licensed under Chapter 4729. of the Revised	32326
Code;	32327
(11) A psychologist licensed under Chapter 4732. of the	32328
Revised Code;	32329

(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	32330 32331
(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	32332 32333
(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.	32334 32335
(M) <u>"Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.</u>	32336 32337 32338 32339 32340 32341 32342 32343
(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.	32344 32345 32346
(N) (O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.	32347 32348 32349
Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:	32350 32351
(A) <u>"Hospital" has the same meaning as in section 3727.01 of the Revised Code.</u>	32352 32353
(B) <u>"Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the</u>	32354 32355 32356 32357 32358 32359

percentage of the facility's per resident per day rate paid for 32360
those days. 32361

(C) "Medicaid" has the same meaning as in section 5111.01 of 32362
the Revised Code. 32363

(D) "Medicaid day" means all days during which a resident who 32364
is a medicaid recipient occupies a bed in a nursing facility that 32365
is included in the facility's certified capacity under Title XIX. 32366
Therapeutic or hospital leave days for which payment is made under 32367
section 5111.26 of the Revised Code are considered medicaid days 32368
proportionate to the percentage of the nursing facility's per 32369
resident per day rate for those days. 32370

(E) "Nursing facility" has the same meaning as in section 32371
5111.20 of the Revised Code. 32372

(F)(1) "Nursing home" means all of the following: 32373

(a) A nursing home licensed under section 3721.02 or 3721.09 32374
of the Revised Code, including any part of a home for the aging 32375
licensed as a nursing home; 32376

(b) A facility or part of a facility, other than a hospital, 32377
that is certified as a skilled nursing facility under Title XVIII 32378
of the ~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 32379
~~301, as amended;~~ 32380

(c) A nursing facility ~~as defined in section 5111.20 of the~~ 32381
~~Revised Code,~~ other than a portion of a hospital certified as a 32382
nursing facility. 32383

(2) "Nursing home" does not include a any of the following: 32384

(a) A county home, county nursing home, or district home 32385
operated pursuant to Chapter 5155. of the Revised Code ~~or a;~~ 32386

(b) A nursing home maintained and operated by the Ohio 32387
veterans' home agency under section 5907.01 of the Revised Code; 32388

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX ~~of the "Social Security Act."~~

~~(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) ~~For~~ Subject to division (C) of this section and for the purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;~~

(2) ~~The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is~~

determined pursuant to division (A) of section 3721.53 of the Revised Code. 32419
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(B) ~~For~~ Subject to division (C) of this section and for the purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one dollar for each fiscal year thereafter, multiplied by the product of the following: 32421
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(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ and, ~~for each subsequent year,~~ the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code; 32429
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(2) ~~The number of days in fiscal year 1994 and, for each subsequent year,~~ the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code. 32436
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(C) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, ~~the department of job and family services shall take all necessary actions to cease implementation of these sections 3721.50 to 3721.58 of the Revised Code~~ in accordance with rules adopted under section 3721.58 of the Revised Code. 32441
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Sec. 3721.52. (A) For the purpose of the fee under division 32450
(A) of section 3721.51 of the Revised Code, the department of 32451
health shall, ~~not later than August 1, 1993, and, for each~~ 32452
~~subsequent year,~~ not later than the first day of each June, report 32453
to the department of job and family services the number of beds in 32454
each nursing home licensed on ~~July 1, 1993, and, for each~~ 32455
~~subsequent year,~~ the preceding first day of May under section 32456
3721.02 or 3721.09 of the Revised Code or certified on that date 32457
under Title XVIII or XIX of ~~the "Social Security Act," 49 Stat.~~ 32458
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ 32459

(B) For the purpose of the fee under division (B) of section 32460
3721.51 of the Revised Code, the department of health shall, ~~not~~ 32461
~~later than August 1, 1993, and, for each subsequent year,~~ not 32462
later than the first day of each June, report to the department of 32463
job and family services the number of beds in each hospital 32464
registered on ~~July 1, 1993, and, for each subsequent year,~~ the 32465
preceding first day of May pursuant to section 3701.07 of the 32466
Revised Code as skilled nursing facility or long-term care beds or 32467
licensed on that date under section 3721.02 or 3721.09 of the 32468
Revised Code as nursing home beds. 32469

Sec. 3721.541. (A) In addition to assessing a penalty 32470
pursuant to section 3721.54 of the Revised Code, the department of 32471
job and family services may do either of the following if a 32472
nursing facility or hospital fails to pay the full amount of a 32473
franchise permit fee installment when due: 32474

(1) Withhold an amount equal to the installment and penalty 32475
assessed under section 3721.54 of the Revised Code from a medicaid 32476
payment due the nursing facility or hospital until the nursing 32477
facility or hospital pays the installment and penalty; 32478

(2) Terminate the nursing facility or hospital's medicaid 32479

provider agreement. 32480

(B) The department may withhold a medicaid payment under 32481
division (A)(1) of this section without providing notice to the 32482
nursing facility or hospital and without conducting an 32483
adjudication under Chapter 119. of the Revised Code. 32484

Sec. 3721.56. ~~(A) Thirty and three tenths~~ There is hereby 32485
created in the state treasury the home- and community-based 32486
services for the aged fund. Sixteen per cent of all payments and 32487
penalties paid by nursing homes and hospitals under sections 32488
3721.53 and 3721.54 of the Revised Code for fiscal ~~year 2002,~~ 32489
~~twenty three and twenty six hundredths per cent of such payments~~ 32490
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and 32491
2007, and all such payments and penalties paid for subsequent 32492
fiscal years, shall be deposited into the ~~"home and~~ 32493
~~community based services for the aged fund,"~~ which is hereby 32494
created in the state treasury. The departments of job and family 32495
services and aging shall use the moneys in the fund to fund the 32496
following in accordance with rules adopted under section 3721.58 32497
of the Revised Code: 32498

~~(1)(A)~~ The medical assistance medicaid program established 32499
under Chapter 5111. of the Revised Code; 32500

~~(2) The,~~ including the PASSPORT program established under 32501
section 173.40 of the Revised Code; 32502

~~(3)(B)~~ The residential state supplement program established 32503
under section 173.35 of the Revised Code. 32504

~~(B) Sixty nine and seven tenths per cent of all payments and~~ 32505
~~penalties paid by nursing homes and hospitals under sections~~ 32506
~~3721.53 and 3721.54 of the Revised Code for fiscal year 2002,~~ and 32507
~~seventy six and seventy four hundredths per cent of such payments~~ 32508
~~and penalties paid for fiscal years 2003 through 2005,~~ shall be 32509

~~deposited into the nursing facility stabilization fund, which is~~ 32510
~~hereby created in the state treasury. The department of job and~~ 32511
~~family services shall use the money in the fund in the manner~~ 32512
~~provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th~~ 32513
~~general assembly.~~ 32514

Sec. 3721.561. (A) There is hereby created in the state 32515
treasury the nursing facility stabilization fund. All payments and 32516
penalties paid by nursing homes and hospitals under sections 32517
3721.53 and 3721.54 of the Revised Code that are not deposited 32518
into the home and community-based services for the aged fund shall 32519
be deposited into the fund. The department of job and family 32520
services shall use the money in the fund to do all of the 32521
following: 32522

(1) Make medicaid payments to nursing facilities; 32523

(2) Beginning with the fourth quarter of calendar year 2006 32524
and each quarter thereafter, pay each nursing facility an amount 32525
determined as follows: 32526

(a) Divide the amount of the franchise permit fee that the 32527
nursing facility pays under section 3721.53 of the Revised Code 32528
for the fiscal year in which the payment is made by the nursing 32529
facility's inpatient days for the calendar year preceding that 32530
fiscal year; 32531

(b) Multiply the amount determined under division (A)(2)(a) 32532
of this section by the nursing facility's medicaid days for the 32533
calendar year preceding the fiscal year in which the payment is 32534
made; 32535

(c) Divide the amount determined under division (A)(2)(b) of 32536
this section for the nursing facility by four. 32537

(B) Any money remaining in the nursing facility stabilization 32538
fund after payments specified in division (A) of this section are 32539

made shall be retained in the fund. Any interest or other 32540
investment proceeds earned on money in the fund shall be credited 32541
to the fund and used to make medicaid payments in accordance with 32542
division (A)(1) of this section. 32543

Sec. 3721.58. The director of job and family services shall 32544
adopt rules in accordance with Chapter 119. of the Revised Code to 32545
do ~~both~~ all of the following: 32546

(A) Prescribe the actions the department of job and family 32547
services will take to cease implementation of sections 3721.50 32548
through 3721.57 of the Revised Code if the United States ~~health~~ 32549
~~care financing administration~~ centers for medicare and medicaid
services determines that the franchise permit fee established by 32550
those sections is an impermissible health-care related tax under 32551
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 32552
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 32553
32554

(B) Establish the method of distributing moneys in the home 32555
and community-based services for the aged fund created under 32556
section 3721.56 of the Revised Code; 32557

(C) Establish any requirements or procedures the director 32558
considers necessary to implement sections 3721.50 to 3721.58 of 32559
the Revised Code. 32560

Sec. 3722.01. (A) As used in this chapter: 32561

(1) "Owner" means the person who owns the business of and who 32562
ultimately controls the operation of an adult care facility and to 32563
whom the manager, if different from the owner, is responsible. 32564

(2) "Manager" means the person responsible for the daily 32565
operation of an adult care facility. The manager and the owner of 32566
a facility may be the same person. 32567

(3) "Adult" means an individual eighteen years of age or 32568

older.	32569
(4) "Unrelated" means that an adult resident is not related	32570
to the owner or manager of an adult care facility or to the	32571
owner's or manager's spouse as a parent, grandparent, child,	32572
stepchild, grandchild, brother, sister, niece, nephew, aunt, or	32573
uncle, or as the child of an aunt or uncle.	32574
(5) "Skilled nursing care" means skilled nursing care as	32575
defined in section 3721.01 of the Revised Code.	32576
(6)(a) "Personal care services" means services including, but	32577
not limited to, the following:	32578
(i) Assisting residents with activities of daily living;	32579
(ii) Assisting residents with self-administration of	32580
medication, in accordance with rules adopted by the public health	32581
council pursuant to this chapter;	32582
(iii) Preparing special diets, other than complex therapeutic	32583
diets, for residents pursuant to the instructions of a physician	32584
or a licensed dietitian, in accordance with rules adopted by the	32585
public health council pursuant to this chapter.	32586
(b) "Personal care services" does not include "skilled	32587
nursing care" as defined in section 3721.01 of the Revised Code. A	32588
facility need not provide more than one of the services listed in	32589
division (A)(6)(a) of this section to be considered to be	32590
providing personal care services.	32591
(7) "Adult family home" means a residence or facility that	32592
provides accommodations to three to five unrelated adults and	32593
supervision and personal care services to at least three of those	32594
adults.	32595
(8) "Adult group home" means a residence or facility that	32596
provides accommodations to six to sixteen unrelated adults and	32597
provides supervision and personal care services to at least three	32598

of the unrelated adults. 32599

(9) "Adult care facility" means an adult family home or an 32600
adult group home. For the purposes of this chapter, any residence, 32601
facility, institution, hotel, congregate housing project, or 32602
similar facility that provides accommodations and supervision to 32603
three to sixteen unrelated adults, at least three of whom are 32604
provided personal care services, is an adult care facility 32605
regardless of how the facility holds itself out to the public. 32606
"Adult care facility" does not include: 32607

(a) A facility operated by a hospice care program licensed 32608
under section 3712.04 of the Revised Code that is used exclusively 32609
for care of hospice patients; 32610

(b) A nursing home, residential care facility, or home for 32611
the aging as defined in section 3721.01 of the Revised Code; 32612

(c) A community alternative home as defined in section 32613
3724.01 of the Revised Code; 32614

(d) An alcohol and drug addiction program as defined in 32615
section 3793.01 of the Revised Code; 32616

~~(e) A habilitation center as defined in section 5123.041 of 32617
the Revised Code; 32618~~

~~(f)~~ A residential facility for the mentally ill licensed by 32619
the department of mental health under section 5119.22 of the 32620
Revised Code; 32621

~~(g)~~(f) A facility licensed to provide methadone treatment 32622
under section 3793.11 of the Revised Code; 32623

~~(h)~~(g) A residential facility licensed under section 5123.19 32624
of the Revised Code or otherwise regulated by the department of 32625
mental retardation and developmental disabilities; 32626

~~(i)~~(h) Any residence, institution, hotel, congregate housing 32627
project, or similar facility that provides personal care services 32628

to fewer than three residents or that provides, for any number of 32629
residents, only housing, housekeeping, laundry, meal preparation, 32630
social or recreational activities, maintenance, security, 32631
transportation, and similar services that are not personal care 32632
services or skilled nursing care; 32633

~~(j)~~(i) Any facility that receives funding for operating costs 32634
from the department of development under any program established 32635
to provide emergency shelter housing or transitional housing for 32636
the homeless; 32637

~~(k)~~(j) A terminal care facility for the homeless that has 32638
entered into an agreement with a hospice care program under 32639
section 3712.07 of the Revised Code; 32640

~~(l)~~(k) A facility approved by the veterans administration 32641
under section 104(a) of the "Veterans Health Care Amendments of 32642
1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used 32643
exclusively for the placement and care of veterans; 32644

~~(m)~~(l) Until January 1, 1994, the portion of a facility in 32645
which care is provided exclusively to members of a religious order 32646
if the facility is owned by or part of a nonprofit institution of 32647
higher education authorized to award degrees by the Ohio board of 32648
regents under Chapter 1713. of the Revised Code. 32649

(10) "Residents' rights advocate" means: 32650

(a) An employee or representative of any state or local 32651
government entity that has a responsibility for residents of adult 32652
care facilities and has registered with the department of health 32653
under section 3701.07 of the Revised Code; 32654

(b) An employee or representative, other than a manager or 32655
employee of an adult care facility or nursing home, of any private 32656
nonprofit corporation or association that qualifies for tax-exempt 32657
status under section 501(a) of the "Internal Revenue Code of 32658
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 32659

registered with the department of health under section 3701.07 of 32660
the Revised Code, and whose purposes include educating and 32661
counseling residents, assisting residents in resolving problems 32662
and complaints concerning their care and treatment, and assisting 32663
them in securing adequate services. 32664

(11) "Sponsor" means an adult relative, friend, or guardian 32665
of a resident of an adult care facility who has an interest in or 32666
responsibility for the resident's welfare. 32667

(12) "Ombudsperson" means a "representative of the office of 32668
the state long-term care ombudsperson program" as defined in 32669
section 173.14 of the Revised Code. 32670

(13) "Mental health agency" means a community mental health 32671
agency, as defined in section 5119.22 of the Revised Code, under 32672
contract with a board of alcohol, drug addiction, and mental 32673
health services pursuant to division (A)(8)(a) of section 340.03 32674
of the Revised Code. 32675

(B) For purposes of this chapter, personal care services or 32676
skilled nursing care shall be considered to be provided by a 32677
facility if they are provided by a person employed by or 32678
associated with the facility or by another person pursuant to an 32679
agreement to which neither the resident who receives the services 32680
nor the resident's sponsor is a party. 32681

(C) Nothing in division (A)(6) of this section shall be 32682
construed to permit personal care services to be imposed upon a 32683
resident who is capable of performing the activity in question 32684
without assistance. 32685

Sec. 3722.02. A person seeking a license to operate an adult 32686
care facility shall submit to the director of health an 32687
application on a form prescribed by the director and the 32688
following: 32689

(A) In the case of an adult group home seeking licensure as 32690
an adult care facility, evidence that the home has been inspected 32691
and approved by a local certified building department or by the 32692
division of industrial compliance in the department of commerce as 32693
meeting the applicable requirements of sections 3781.06 to 3781.18 32694
and 3791.04 of the Revised Code and any rules adopted under those 32695
sections and evidence that the home has been inspected by the 32696
state fire marshal or fire prevention officer of a municipal, 32697
township, or other legally constituted fire department approved by 32698
the state fire marshal and found to be in compliance with rules 32699
adopted under section 3737.83 of the Revised Code regarding fire 32700
prevention and safety in adult group homes; 32701

(B) Valid approvals of the facility's water and sewage 32702
systems issued by the responsible governmental entity, if 32703
applicable; 32704

(C) A statement of ownership containing the following 32705
information: 32706

(1) If the owner is an individual, the owner's name, address, 32707
telephone number, business address, business telephone number, and 32708
occupation. If the owner is an association, corporation, or 32709
partnership, the business activity, address, and telephone number 32710
of the entity and the name of every person who has an ownership 32711
interest of five per cent or more in the entity. 32712

(2) If the owner does not own the building or if the owner 32713
owns only part of the building in which the facility is housed, 32714
the name of each person who has an ownership interest of five per 32715
cent or more in the building; 32716

(3) The address of any adult care facility and any facility 32717
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 32718
the Revised Code in which the owner has an ownership interest of 32719
five per cent or more; 32720

(4) The identity of the manager of the adult care facility,	32721
if different from the owner;	32722
(5) The name and address of any adult care facility and any	32723
facility described in divisions (A)(9)(a) to (i) (h) of section	32724
3722.01 of the Revised Code with which either the owner or manager	32725
has been affiliated through ownership or employment in the five	32726
years prior to the date of the application;	32727
(6) The names and addresses of three persons not employed by	32728
or associated in business with the owner who will provide	32729
information about the character, reputation, and competence of the	32730
owner and the manager and the financial responsibility of the	32731
owner;	32732
(7) Information about any arrest of the owner or manager for,	32733
or adjudication or conviction of, a criminal offense related to	32734
the provision of care in an adult care facility or any facility	32735
described in divisions (A)(9)(a) to (i) (h) of section 3722.01 of	32736
the Revised Code or the ability to operate a facility;	32737
(8) Any other information the director may require regarding	32738
the owner's ability to operate the facility.	32739
(D) If the facility is an adult group home, a balance sheet	32740
showing the assets and liabilities of the owner and a statement	32741
projecting revenues and expenses for the first twelve months of	32742
the facility's operation;	32743
(E) Proof of insurance in an amount and type determined in	32744
rules adopted by the public health council pursuant to this	32745
chapter to be adequate;	32746
(F) A nonrefundable license application fee in an amount	32747
established in rules adopted by the public health council pursuant	32748
to this chapter.	32749
Sec. 3734.01. As used in this chapter:	32750

(A) "Board of health" means the board of health of a city or
general health district or the authority having the duties of a
board of health in any city as authorized by section 3709.05 of
the Revised Code.

(B) "Director" means the director of environmental
protection.

(C) "Health district" means a city or general health district
as created by or under authority of Chapter 3709. of the Revised
Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or
semisolid material as results from industrial, commercial,
agricultural, and community operations, excluding earth or
material from construction, mining, or demolition operations, or
other waste materials of the type that normally would be included
in demolition debris, nontoxic fly ash and bottom ash, including
at least ash that results from the combustion of coal and ash that
results from the combustion of coal in combination with scrap
tires where scrap tires comprise not more than fifty per cent of
heat input in any month, spent nontoxic foundry sand, nontoxic,
nonhazardous, unwanted fired and unfired, glazed and unglazed,
structural shale and clay products, and slag and other substances
that are not harmful or inimical to public health, and includes,
but is not limited to, garbage, scrap tires, combustible and
noncombustible material, street dirt, and debris. "Solid wastes"
does not include any material that is an infectious waste or a
hazardous waste.

(F) "Disposal" means the discharge, deposit, injection,
dumping, spilling, leaking, emitting, or placing of any solid
wastes or hazardous waste into or on any land or ground or surface
water or into the air, except if the disposition or placement

constitutes storage or treatment or, if the solid wastes consist 32782
of scrap tires, the disposition or placement constitutes a 32783
beneficial use or occurs at a scrap tire recovery facility 32784
licensed under section 3734.81 of the Revised Code. 32785

(G) "Person" includes the state, any political subdivision 32786
and other state or local body, the United States and any agency or 32787
instrumentality thereof, and any legal entity defined as a person 32788
under section 1.59 of the Revised Code. 32789

(H) "Open burning" means the burning of solid wastes in an 32790
open area or burning of solid wastes in a type of chamber or 32791
vessel that is not approved or authorized in rules adopted by the 32792
director under section 3734.02 of the Revised Code or, if the 32793
solid wastes consist of scrap tires, in rules adopted under 32794
division (V) of this section or section 3734.73 of the Revised 32795
Code, or the burning of treated or untreated infectious wastes in 32796
an open area or in a type of chamber or vessel that is not 32797
approved in rules adopted by the director under section 3734.021 32798
of the Revised Code. 32799

(I) "Open dumping" means the depositing of solid wastes into 32800
a body or stream of water or onto the surface of the ground at a 32801
site that is not licensed as a solid waste facility under section 32802
3734.05 of the Revised Code or, if the solid wastes consist of 32803
scrap tires, as a scrap tire collection, storage, monocell, 32804
monofill, or recovery facility under section 3734.81 of the 32805
Revised Code; the depositing of solid wastes that consist of scrap 32806
tires onto the surface of the ground at a site or in a manner not 32807
specifically identified in divisions (C)(2) to (5), (7), or (10) 32808
of section 3734.85 of the Revised Code; the depositing of 32809
untreated infectious wastes into a body or stream of water or onto 32810
the surface of the ground; or the depositing of treated infectious 32811
wastes into a body or stream of water or onto the surface of the 32812
ground at a site that is not licensed as a solid waste facility 32813

under section 3734.05 of the Revised Code. 32814

(J) "Hazardous waste" means any waste or combination of 32815
wastes in solid, liquid, semisolid, or contained gaseous form that 32816
in the determination of the director, because of its quantity, 32817
concentration, or physical or chemical characteristics, may do 32818
either of the following: 32819

(1) Cause or significantly contribute to an increase in 32820
mortality or an increase in serious irreversible or incapacitating 32821
reversible illness; 32822

(2) Pose a substantial present or potential hazard to human 32823
health or safety or to the environment when improperly stored, 32824
treated, transported, disposed of, or otherwise managed. 32825

"Hazardous waste" includes any substance identified by 32826
regulation as hazardous waste under the "Resource Conservation and 32827
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 32828
amended, and does not include any substance that is subject to the 32829
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 32830
amended. 32831

(K) "Treat" or "treatment," when used in connection with 32832
hazardous waste, means any method, technique, or process designed 32833
to change the physical, chemical, or biological characteristics or 32834
composition of any hazardous waste; to neutralize the waste; to 32835
recover energy or material resources from the waste; to render the 32836
waste nonhazardous or less hazardous, safer to transport, store, 32837
or dispose of, or amenable for recovery, storage, further 32838
treatment, or disposal; or to reduce the volume of the waste. When 32839
used in connection with infectious wastes, "treat" or "treatment" 32840
means any method, technique, or process designed to render the 32841
wastes noninfectious, including, without limitation, steam 32842
sterilization and incineration, or, in the instance of wastes 32843
identified in division (R)(7) of this section, to substantially 32844

reduce or eliminate the potential for the wastes to cause 32845
lacerations or puncture wounds. 32846

(L) "Manifest" means the form used for identifying the 32847
quantity, composition, origin, routing, and destination of 32848
hazardous waste during its transportation from the point of 32849
generation to the point of disposal, treatment, or storage. 32850

(M) "Storage," when used in connection with hazardous waste, 32851
means the holding of hazardous waste for a temporary period in 32852
such a manner that it remains retrievable and substantially 32853
unchanged physically and chemically and, at the end of the period, 32854
is treated; disposed of; stored elsewhere; or reused, recycled, or 32855
reclaimed in a beneficial manner. When used in connection with 32856
solid wastes that consist of scrap tires, "storage" means the 32857
holding of scrap tires for a temporary period in such a manner 32858
that they remain retrievable and, at the end of that period, are 32859
beneficially used; stored elsewhere; placed in a scrap tire 32860
monocell or monofill facility licensed under section 3734.81 of 32861
the Revised Code; processed at a scrap tire recovery facility 32862
licensed under that section or a solid waste incineration or 32863
energy recovery facility subject to regulation under this chapter; 32864
or transported to a scrap tire monocell, monofill, or recovery 32865
facility, any other solid waste facility authorized to dispose of 32866
scrap tires, or a facility that will beneficially use the scrap 32867
tires, that is located in another state and is operating in 32868
compliance with the laws of the state in which the facility is 32869
located. 32870

(N) "Facility" means any site, location, tract of land, 32871
installation, or building used for incineration, composting, 32872
sanitary landfilling, or other methods of disposal of solid wastes 32873
or, if the solid wastes consist of scrap tires, for the 32874
collection, storage, or processing of the solid wastes; for the 32875
transfer of solid wastes; for the treatment of infectious wastes; 32876

or for the storage, treatment, or disposal of hazardous waste. 32877

(O) "Closure" means the time at which a hazardous waste 32878
facility will no longer accept hazardous waste for treatment, 32879
storage, or disposal, the time at which a solid waste facility 32880
will no longer accept solid wastes for transfer or disposal or, if 32881
the solid wastes consist of scrap tires, for storage or 32882
processing, or the effective date of an order revoking the permit 32883
for a hazardous waste facility or the registration certificate, 32884
permit, or license for a solid waste facility, as applicable. 32885
"Closure" includes measures performed to protect public health or 32886
safety, to prevent air or water pollution, or to make the facility 32887
suitable for other uses, if any, including, but not limited to, 32888
the removal of processing residues resulting from solid wastes 32889
that consist of scrap tires; the establishment and maintenance of 32890
a suitable cover of soil and vegetation over cells in which 32891
hazardous waste or solid wastes are buried; minimization of 32892
erosion, the infiltration of surface water into such cells, the 32893
production of leachate, and the accumulation and runoff of 32894
contaminated surface water; the final construction of facilities 32895
for the collection and treatment of leachate and contaminated 32896
surface water runoff, except as otherwise provided in this 32897
division; the final construction of air and water quality 32898
monitoring facilities, except as otherwise provided in this 32899
division; the final construction of methane gas extraction and 32900
treatment systems; or the removal and proper disposal of hazardous 32901
waste or solid wastes from a facility when necessary to protect 32902
public health or safety or to abate or prevent air or water 32903
pollution. With regard to a solid waste facility that is a scrap 32904
tire facility, "closure" includes the final construction of 32905
facilities for the collection and treatment of leachate and 32906
contaminated surface water runoff and the final construction of 32907
air and water quality monitoring facilities only if those actions 32908

are determined to be necessary.	32909
(P) "Premises" means either of the following:	32910
(1) Geographically contiguous property owned by a generator;	32911
(2) Noncontiguous property that is owned by a generator and	32912
connected by a right-of-way that the generator controls and to	32913
which the public does not have access. Two or more pieces of	32914
property that are geographically contiguous and divided by public	32915
or private right-of-way or rights-of-way are a single premises.	32916
(Q) "Post-closure" means that period of time following	32917
closure during which a hazardous waste facility is required to be	32918
monitored and maintained under this chapter and rules adopted	32919
under it, including, without limitation, operation and maintenance	32920
of methane gas extraction and treatment systems, or the period of	32921
time after closure during which a scrap tire monocell or monofill	32922
facility licensed under section 3734.81 of the Revised Code is	32923
required to be monitored and maintained under this chapter and	32924
rules adopted under it.	32925
(R) "Infectious wastes" includes all of the following	32926
substances or categories of substances:	32927
(1) Cultures and stocks of infectious agents and associated	32928
biologicals, including, without limitation, specimen cultures,	32929
cultures and stocks of infectious agents, wastes from production	32930
of biologicals, and discarded live and attenuated vaccines;	32931
(2) Laboratory wastes that were, or are likely to have been,	32932
in contact with infectious agents that may present a substantial	32933
threat to public health if improperly managed;	32934
(3) Pathological wastes, including, without limitation, human	32935
and animal tissues, organs, and body parts, and body fluids and	32936
excreta that are contaminated with or are likely to be	32937
contaminated with infectious agents, removed or obtained during	32938

surgery or autopsy or for diagnostic evaluation, provided that, 32939
with regard to pathological wastes from animals, the animals have 32940
or are likely to have been exposed to a zoonotic or infectious 32941
agent; 32942

(4) Waste materials from the rooms of humans, or the 32943
enclosures of animals, that have been isolated because of 32944
diagnosed communicable disease that are likely to transmit 32945
infectious agents. Such waste materials from the rooms of humans 32946
do not include any wastes of patients who have been placed on 32947
blood and body fluid precautions under the universal precaution 32948
system established by the centers for disease control in the 32949
public health service of the United States department of health 32950
and human services, except to the extent specific wastes generated 32951
under the universal precautions system have been identified as 32952
infectious wastes by rules adopted under division (R)(8) of this 32953
section. 32954

(5) Human and animal blood specimens and blood products that 32955
are being disposed of, provided that, with regard to blood 32956
specimens and blood products from animals, the animals were or are 32957
likely to have been exposed to a zoonotic or infectious agent. 32958
"Blood products" does not include patient care waste such as 32959
bandages or disposable gowns that are lightly soiled with blood or 32960
other body fluids unless those wastes are soiled to the extent 32961
that the generator of the wastes determines that they should be 32962
managed as infectious wastes. 32963

(6) Contaminated carcasses, body parts, and bedding of 32964
animals that were intentionally exposed to infectious agents from 32965
zoonotic or human diseases during research, production of 32966
biologicals, or testing of pharmaceuticals, and carcasses and 32967
bedding of animals otherwise infected by zoonotic or infectious 32968
agents that may present a substantial threat to public health if 32969
improperly managed; 32970

(7) Sharp wastes used in the treatment, diagnosis, or 32971
inoculation of human beings or animals or that have, or are likely 32972
to have, come in contact with infectious agents in medical, 32973
research, or industrial laboratories, including, without 32974
limitation, hypodermic needles and syringes, scalpel blades, and 32975
glass articles that have been broken; 32976

(8) Any other waste materials generated in the diagnosis, 32977
treatment, or immunization of human beings or animals, in research 32978
pertaining thereto, or in the production or testing of 32979
biologicals, that the public health council created in section 32980
3701.33 of the Revised Code, by rules adopted in accordance with 32981
Chapter 119. of the Revised Code, identifies as infectious wastes 32982
after determining that the wastes present a substantial threat to 32983
human health when improperly managed because they are contaminated 32984
with, or are likely to be contaminated with, infectious agents. 32985

(S) "Infectious agent" means a type of microorganism, 32986
helminth, or virus that causes, or significantly contributes to 32987
the cause of, increased morbidity or mortality of human beings. 32988

(T) "Zoonotic agent" means a type of microorganism, helminth, 32989
or virus that causes disease in vertebrate animals and that is 32990
transmissible to human beings and causes or significantly 32991
contributes to the cause of increased morbidity or mortality of 32992
human beings. 32993

(U) "Solid waste transfer facility" means any site, location, 32994
tract of land, installation, or building that is used or intended 32995
to be used primarily for the purpose of transferring solid wastes 32996
that were generated off the premises of the facility from vehicles 32997
or containers into other vehicles for transportation to a solid 32998
waste disposal facility. "Solid waste transfer facility" does not 32999
include any facility that consists solely of portable containers 33000
that have an aggregate volume of fifty cubic yards or less nor any 33001

facility where legitimate recycling activities are conducted. 33002

(V) "Beneficially use" means to use a scrap tire in a manner 33003
that results in a commodity for sale or exchange or in any other 33004
manner authorized as a beneficial use in rules adopted by the 33005
director in accordance with Chapter 119. of the Revised Code. 33006

(W) "Commercial car," "commercial tractor," "farm machinery," 33007
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 33008
the same meanings as in section 4501.01 of the Revised Code. 33009

(X) "Construction equipment" means road rollers, traction 33010
engines, power shovels, power cranes, and other equipment used in 33011
construction work, or in mining or producing or processing 33012
aggregates, and not designed for or used in general highway 33013
transportation. 33014

(Y) "Motor vehicle salvage dealer" has the same meaning as in 33015
section 4738.01 of the Revised Code. 33016

(Z) "Scrap tire" means an unwanted or discarded tire. 33017

(AA) "Scrap tire collection facility" means any facility that 33018
meets all of the following qualifications: 33019

(1) The facility is used for the receipt and storage of whole 33020
scrap tires from the public prior to their transportation to a 33021
scrap tire storage, monocell, monofill, or recovery facility 33022
licensed under section 3734.81 of the Revised Code; a solid waste 33023
incineration or energy recovery facility subject to regulation 33024
under this chapter; a premises within the state where the scrap 33025
tires will be beneficially used; or a scrap tire storage, 33026
monocell, monofill, or recovery facility, any other solid waste 33027
disposal facility authorized to dispose of scrap tires, or a 33028
facility that will beneficially use the scrap tires, that is 33029
located in another state, and that is operating in compliance with 33030
the laws of the state in which the facility is located. 33031

(2) The facility exclusively stores scrap tires in portable 33032
containers+., 33033

(3) The aggregate storage of the portable containers in which 33034
the scrap tires are stored does not exceed five thousand cubic 33035
feet. 33036

(BB) "Scrap tire monocell facility" means an individual site 33037
within a solid waste landfill that is used exclusively for the 33038
environmentally sound storage or disposal of whole scrap tires or 33039
scrap tires that have been shredded, chipped, or otherwise 33040
mechanically processed. 33041

(CC) "Scrap tire monofill facility" means an engineered 33042
facility used or intended to be used exclusively for the storage 33043
or disposal of scrap tires, including at least facilities for the 33044
submergence of whole scrap tires in a body of water. 33045

(DD) "Scrap tire recovery facility" means any facility, or 33046
portion thereof, for the processing of scrap tires for the purpose 33047
of extracting or producing usable products, materials, or energy 33048
from the scrap tires through a controlled combustion process, 33049
mechanical process, or chemical process. "Scrap tire recovery 33050
facility" includes any facility that uses the controlled 33051
combustion of scrap tires in a manufacturing process to produce 33052
process heat or steam or any facility that produces usable heat or 33053
electric power through the controlled combustion of scrap tires in 33054
combination with another fuel, but does not include any solid 33055
waste incineration or energy recovery facility that is designed, 33056
constructed, and used for the primary purpose of incinerating 33057
mixed municipal solid wastes and that burns scrap tires in 33058
conjunction with mixed municipal solid wastes, or any tire 33059
retreading business, tire manufacturing finishing center, or tire 33060
adjustment center having on the premises of the business a single, 33061
covered scrap tire storage area at which not more than four 33062

thousand scrap tires are stored.

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(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

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(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

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Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation,

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financial assurance requirements for closure and post-closure care 33094
and corrective action and requirements for taking corrective 33095
action in the event of the surface or subsurface discharge or 33096
migration of explosive gases or leachate from a solid waste 33097
facility, or of ground water contamination resulting from the 33098
transfer or disposal of solid wastes at a facility, beyond the 33099
boundaries of any area within a facility that is operating or is 33100
undergoing closure or post-closure care where solid wastes were 33101
disposed of or are being disposed of. The rules shall not concern 33102
or relate to personnel policies, salaries, wages, fringe benefits, 33103
or other conditions of employment of employees of persons owning 33104
or operating solid waste facilities. The director, in accordance 33105
with Chapter 119. of the Revised Code, shall adopt and may amend, 33106
suspend, or rescind rules governing the issuance, modification, 33107
revocation, suspension, or denial of variances from the director's 33108
solid waste rules, including, without limitation, rules adopted 33109
under this chapter governing the management of scrap tires. 33110

Variances shall be issued, modified, revoked, suspended, or 33111
rescinded in accordance with this division, rules adopted under 33112
it, and Chapter 3745. of the Revised Code. The director may order 33113
the person to whom a variance is issued to take such action within 33114
such time as the director may determine to be appropriate and 33115
reasonable to prevent the creation of a nuisance or a hazard to 33116
the public health or safety or the environment. Applications for 33117
variances shall contain such detail plans, specifications, and 33118
information regarding objectives, procedures, controls, and other 33119
pertinent data as the director may require. The director shall 33120
grant a variance only if the applicant demonstrates to the 33121
director's satisfaction that construction and operation of the 33122
solid waste facility in the manner allowed by the variance and any 33123
terms or conditions imposed as part of the variance will not 33124
create a nuisance or a hazard to the public health or safety or 33125
the environment. In granting any variance, the director shall 33126

state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by

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certified mail. 33160

(B) The director shall prescribe and furnish the forms 33161
necessary to administer and enforce this chapter. The director may 33162
cooperate with and enter into agreements with other state, local, 33163
or federal agencies to carry out the purposes of this chapter. The 33164
director may exercise all incidental powers necessary to carry out 33165
the purposes of this chapter. 33166

The director may use moneys in the infectious waste 33167
management fund created in section 3734.021 of the Revised Code 33168
exclusively for administering and enforcing the provisions of this 33169
chapter governing the management of infectious wastes. Of each 33170
registration and renewal fee collected under rules adopted under 33171
division (A)~~(2)~~(4)(a) of section 3734.021 or under section 33172
3734.022 of the Revised Code, the director, within forty-five days 33173
of its receipt, shall remit from the fund one-half of the fee 33174
received to the board of health of the health district in which 33175
the registered premises is located, or, in the instance of an 33176
infectious wastes transporter, to the board of health of the 33177
health district in which the transporter's principal place of 33178
business is located. However, if the board of health having 33179
jurisdiction over a registrant's premises or principal place of 33180
business is not on the approved list under section 3734.08 of the 33181
Revised Code, the director shall not make that payment to the 33182
board of health. 33183

(C) Except as provided in this division and divisions (N)(2) 33184
and (3) of this section, no person shall establish a new solid 33185
waste facility or infectious waste treatment facility, or modify 33186
an existing solid waste facility or infectious waste treatment 33187
facility, without submitting an application for a permit with 33188
accompanying detail plans, specifications, and information 33189
regarding the facility and method of operation and receiving a 33190
permit issued by the director, except that no permit shall be 33191

required under this division to install or operate a solid waste 33192
facility for sewage sludge treatment or disposal when the 33193
treatment or disposal is authorized by a current permit issued 33194
under Chapter 3704. or 6111. of the Revised Code. 33195

No person shall continue to operate a solid waste facility 33196
for which the director has denied a permit for which an 33197
application was required under division (A)(3) of section 3734.05 33198
of the Revised Code, or for which the director has disapproved 33199
plans and specifications required to be filed by an order issued 33200
under division (A)(5) of that section, after the date prescribed 33201
for commencement of closure of the facility in the order issued 33202
under division (A)(6) of section 3734.05 of the Revised Code 33203
denying the permit application or approval. 33204

On and after the effective date of the rules adopted under 33205
division (A) of this section and division (D) of section 3734.12 33206
of the Revised Code governing solid waste transfer facilities, no 33207
person shall establish a new, or modify an existing, solid waste 33208
transfer facility without first submitting an application for a 33209
permit with accompanying engineering detail plans, specifications, 33210
and information regarding the facility and its method of operation 33211
to the director and receiving a permit issued by the director. 33212

No person shall establish a new compost facility or continue 33213
to operate an existing compost facility that accepts exclusively 33214
source separated yard wastes without submitting a completed 33215
registration for the facility to the director in accordance with 33216
rules adopted under divisions (A) and (N)(3) of this section. 33217

This division does not apply to an infectious waste treatment 33218
facility that meets any of the following conditions: 33219

(1) Is owned or operated by the generator of the wastes and 33220
exclusively treats, by methods, techniques, and practices 33221
established by rules adopted under division (C)(1) or (3) of 33222

section 3734.021 of the Revised Code, wastes that are generated at 33223
any premises owned or operated by that generator regardless of 33224
whether the wastes are generated on the premises where the 33225
generator's treatment facility is located or, if the generator is 33226
a hospital as defined in section 3727.01 of the Revised Code, 33227
infectious wastes that are described in division (A)~~(1)(g)~~, 33228
~~(h)(2)~~, or ~~(i)(3)~~ of section 3734.021 of the Revised Code; 33229

(2) Holds a license or renewal of a license to operate a 33230
crematory facility issued under Chapter 4717. and a permit issued 33231
under Chapter 3704. of the Revised Code; 33232

(3) Treats or disposes of dead animals or parts thereof, or 33233
the blood of animals, and is subject to any of the following: 33234

(a) Inspection under the "Federal Meat Inspection Act," 81 33235
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 33236

(b) Chapter 918. of the Revised Code; 33237

(c) Chapter 953. of the Revised Code. 33238

(D) Neither this chapter nor any rules adopted under it apply 33239
to single-family residential premises; to infectious wastes 33240
generated by individuals for purposes of their own care or 33241
treatment that are disposed of with solid wastes from the 33242
individual's residence; to the temporary storage of solid wastes, 33243
other than scrap tires, prior to their collection for disposal; to 33244
the storage of one hundred or fewer scrap tires unless they are 33245
stored in such a manner that, in the judgment of the director or 33246
the board of health of the health district in which the scrap 33247
tires are stored, the storage causes a nuisance, a hazard to 33248
public health or safety, or a fire hazard; or to the collection of 33249
solid wastes, other than scrap tires, by a political subdivision 33250
or a person holding a franchise or license from a political 33251
subdivision of the state; to composting, as defined in section 33252
1511.01 of the Revised Code, conducted in accordance with section 33253

1511.022 of the Revised Code; or to any person who is licensed to 33254
transport raw rendering material to a compost facility pursuant to 33255
section 953.23 of the Revised Code. 33256

(E)(1) As used in this division: 33257

(a) "On-site facility" means a facility that stores, treats, 33258
or disposes of hazardous waste that is generated on the premises 33259
of the facility. 33260

(b) "Off-site facility" means a facility that stores, treats, 33261
or disposes of hazardous waste that is generated off the premises 33262
of the facility and includes such a facility that is also an 33263
on-site facility. 33264

(c) "Satellite facility" means any of the following: 33265

(i) An on-site facility that also receives hazardous waste 33266
from other premises owned by the same person who generates the 33267
waste on the facility premises; 33268

(ii) An off-site facility operated so that all of the 33269
hazardous waste it receives is generated on one or more premises 33270
owned by the person who owns the facility; 33271

(iii) An on-site facility that also receives hazardous waste 33272
that is transported uninterruptedly and directly to the facility 33273
through a pipeline from a generator who is not the owner of the 33274
facility. 33275

(2) Except as provided in division (E)(3) of this section, no 33276
person shall establish or operate a hazardous waste facility, or 33277
use a solid waste facility for the storage, treatment, or disposal 33278
of any hazardous waste, without a hazardous waste facility 33279
installation and operation permit issued in accordance with 33280
section 3734.05 of the Revised Code and subject to the payment of 33281
an application fee not to exceed one thousand five hundred 33282
dollars, payable upon application for a hazardous waste facility 33283

installation and operation permit and upon application for a 33284
renewal permit issued under division (H) of section 3734.05 of the 33285
Revised Code, to be credited to the hazardous waste facility 33286
management fund created in section 3734.18 of the Revised Code. 33287
The term of a hazardous waste facility installation and operation 33288
permit shall not exceed ten years. 33289

In addition to the application fee, there is hereby levied an 33290
annual permit fee to be paid by the permit holder upon the 33291
anniversaries of the date of issuance of the hazardous waste 33292
facility installation and operation permit and of any subsequent 33293
renewal permits and to be credited to the hazardous waste facility 33294
management fund. Annual permit fees totaling forty thousand 33295
dollars or more for any one facility may be paid on a quarterly 33296
basis with the first quarterly payment each year being due on the 33297
anniversary of the date of issuance of the hazardous waste 33298
facility installation and operation permit and of any subsequent 33299
renewal permits. The annual permit fee shall be determined for 33300
each permit holder by the director in accordance with the 33301
following schedule: 33302

TYPE OF BASIC				33303
MANAGEMENT UNIT	TYPE OF FACILITY		FEE	33304
Storage facility using: 33305				
Containers	On-site, off-site, and			33306
	satellite		\$ 500	33307
Tanks	On-site, off-site, and			33308
	satellite		500	33309
Waste pile	On-site, off-site, and			33310
	satellite		3,000	33311
Surface impoundment	On-site and satellite		8,000	33312
	Off-site		10,000	33313
Disposal facility using: 33314				
Deep well injection	On-site and satellite		15,000	33315

	Off-site	25,000	33316
Landfill	On-site and satellite	25,000	33317
	Off-site	40,000	33318
Land application	On-site and satellite	2,500	33319
	Off-site	5,000	33320
Surface impoundment	On-site and satellite	10,000	33321
	Off-site	20,000	33322
Treatment facility using:			33323
Tanks	On-site, off-site, and		33324
	satellite	700	33325
Surface impoundment	On-site and satellite	8,000	33326
	Off-site	10,000	33327
Incinerator	On-site and satellite	5,000	33328
	Off-site	10,000	33329
Other forms			33330
of treatment	On-site, off-site, and		33331
	satellite	1,000	33332

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

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 33348
an annual permit fee of any permit holder that would apply to a 33349
hazardous waste management unit for which a permit has been 33350
issued, but for which construction has not yet commenced. Once 33351
construction has commenced, the director shall require the payment 33352
of a part of the appropriate fee indicated by the schedule that 33353
bears the same relationship to the total fee that the number of 33354
days remaining until the next anniversary date at which payment of 33355
the annual permit fee is due bears to three hundred sixty-five. 33356

The director, by rules adopted in accordance with Chapters 33357
119. and 3745. of the Revised Code, shall prescribe procedures for 33358
collecting the annual permit fee established by this division and 33359
may prescribe other requirements necessary to carry out this 33360
division. 33361

(3) The prohibition against establishing or operating a 33362
hazardous waste facility without a hazardous waste facility 33363
installation and operation permit does not apply to either of the 33364
following: 33365

(a) A facility that is operating in accordance with a permit 33366
renewal issued under division (H) of section 3734.05 of the 33367
Revised Code, a revision issued under division (I) of that section 33368
as it existed prior to August 20, 1996, or a modification issued 33369
by the director under division (I) of that section on and after 33370
August 20, 1996; 33371

(b) Except as provided in division (J) of section 3734.05 of 33372
the Revised Code, a facility that will operate or is operating in 33373
accordance with a permit by rule, or that is not subject to permit 33374
requirements, under rules adopted by the director. In accordance 33375
with Chapter 119. of the Revised Code, the director shall adopt, 33376
and subsequently may amend, suspend, or rescind, rules for the 33377
purposes of division (E)(3)(b) of this section. Any rules so 33378

adopted shall be consistent with and equivalent to regulations 33379
pertaining to interim status adopted under the "Resource 33380
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 33381
6921, as amended, except as otherwise provided in this chapter. 33382

If a modification is requested or proposed for a facility 33383
described in division (E)(3)(a) or (b) of this section, division 33384
(I)(7) of section 3734.05 of the Revised Code applies. 33385

(F) No person shall store, treat, or dispose of hazardous 33386
waste identified or listed under this chapter and rules adopted 33387
under it, regardless of whether generated on or off the premises 33388
where the waste is stored, treated, or disposed of, or transport 33389
or cause to be transported any hazardous waste identified or 33390
listed under this chapter and rules adopted under it to any other 33391
premises, except at or to any of the following: 33392

(1) A hazardous waste facility operating under a permit 33393
issued in accordance with this chapter; 33394

(2) A facility in another state operating under a license or 33395
permit issued in accordance with the "Resource Conservation and 33396
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 33397
amended; 33398

(3) A facility in another nation operating in accordance with 33399
the laws of that nation; 33400

(4) A facility holding a permit issued pursuant to Title I of 33401
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 33402
Stat. 1052, 33 U.S.C.A. 1401, as amended; 33403

(5) A hazardous waste facility as described in division 33404
(E)(3)(a) or (b) of this section. 33405

(G) The director, by order, may exempt any person generating, 33406
collecting, storing, treating, disposing of, or transporting solid 33407
wastes or hazardous waste, or processing solid wastes that consist 33408

of scrap tires, in such quantities or under such circumstances 33409
that, in the determination of the director, are unlikely to 33410
adversely affect the public health or safety or the environment 33411
from any requirement to obtain a registration certificate, permit, 33412
or license or comply with the manifest system or other 33413
requirements of this chapter. Such an exemption shall be 33414
consistent with and equivalent to any regulations adopted by the 33415
administrator of the United States environmental protection agency 33416
under the "Resource Conservation and Recovery Act of 1976," 90 33417
Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 33418
provided in this chapter. 33419

(H) No person shall engage in filling, grading, excavating, 33420
building, drilling, or mining on land where a hazardous waste 33421
facility, or a solid waste facility, was operated without prior 33422
authorization from the director, who shall establish the procedure 33423
for granting such authorization by rules adopted in accordance 33424
with Chapter 119. of the Revised Code. 33425

A public utility that has main or distribution lines above or 33426
below the land surface located on an easement or right-of-way 33427
across land where a solid waste facility was operated may engage 33428
in any such activity within the easement or right-of-way without 33429
prior authorization from the director for purposes of performing 33430
emergency repair or emergency replacement of its lines; of the 33431
poles, towers, foundations, or other structures supporting or 33432
sustaining any such lines; or of the appurtenances to those 33433
structures, necessary to restore or maintain existing public 33434
utility service. A public utility may enter upon any such easement 33435
or right-of-way without prior authorization from the director for 33436
purposes of performing necessary or routine maintenance of those 33437
portions of its existing lines; of the existing poles, towers, 33438
foundations, or other structures sustaining or supporting its 33439
lines; or of the appurtenances to any such supporting or 33440

sustaining structure, located on or above the land surface on any 33441
such easement or right-of-way. Within twenty-four hours after 33442
commencing any such emergency repair, replacement, or maintenance 33443
work, the public utility shall notify the director or the 33444
director's authorized representative of those activities and shall 33445
provide such information regarding those activities as the 33446
director or the director's representative may request. Upon 33447
completion of the emergency repair, replacement, or maintenance 33448
activities, the public utility shall restore any land of the solid 33449
waste facility disturbed by those activities to the condition 33450
existing prior to the commencement of those activities. 33451

(I) No owner or operator of a hazardous waste facility, in 33452
the operation of the facility, shall cause, permit, or allow the 33453
emission therefrom of any particulate matter, dust, fumes, gas, 33454
mist, smoke, vapor, or odorous substance that, in the opinion of 33455
the director, unreasonably interferes with the comfortable 33456
enjoyment of life or property by persons living or working in the 33457
vicinity of the facility, or that is injurious to public health. 33458
Any such action is hereby declared to be a public nuisance. 33459

(J) Notwithstanding any other provision of this chapter, in 33460
the event the director finds an imminent and substantial danger to 33461
public health or safety or the environment that creates an 33462
emergency situation requiring the immediate treatment, storage, or 33463
disposal of hazardous waste, the director may issue a temporary 33464
emergency permit to allow the treatment, storage, or disposal of 33465
the hazardous waste at a facility that is not otherwise authorized 33466
by a hazardous waste facility installation and operation permit to 33467
treat, store, or dispose of the waste. The emergency permit shall 33468
not exceed ninety days in duration and shall not be renewed. The 33469
director shall adopt, and may amend, suspend, or rescind, rules in 33470
accordance with Chapter 119. of the Revised Code governing the 33471
issuance, modification, revocation, and denial of emergency 33472

permits. 33473

(K) No owner or operator of a sanitary landfill shall 33474
knowingly accept for disposal, or dispose of, any infectious 33475
wastes, other than those subject to rules adopted under division 33476
(A)(1)(c) of section 3734.021 of the Revised Code, that have not 33477
been treated to render them noninfectious. For the purposes of 33478
this division, certification by the owner or operator of the 33479
treatment facility where the wastes were treated on the shipping 33480
paper required by rules adopted under division (D)(2) of that 33481
section creates a rebuttable presumption that the wastes have been 33482
so treated. 33483

(L) The director, in accordance with Chapter 119. of the 33484
Revised Code, shall adopt, and may amend, suspend, or rescind, 33485
rules having uniform application throughout the state establishing 33486
a training and certification program that shall be required for 33487
employees of boards of health who are responsible for enforcing 33488
the solid waste and infectious waste provisions of this chapter 33489
and rules adopted under them and for persons who are responsible 33490
for the operation of solid waste facilities or infectious waste 33491
treatment facilities. The rules shall provide all of the 33492
following, without limitation: 33493

(1) The program shall be administered by the director and 33494
shall consist of a course on new solid waste and infectious waste 33495
technologies, enforcement procedures, and rules; 33496

(2) The course shall be offered on an annual basis; 33497

(3) Those persons who are required to take the course under 33498
division (L) of this section shall do so triennially; 33499

(4) Persons who successfully complete the course shall be 33500
certified by the director; 33501

(5) Certification shall be required for all employees of 33502

boards of health who are responsible for enforcing the solid waste 33503
or infectious waste provisions of this chapter and rules adopted 33504
under them and for all persons who are responsible for the 33505
operation of solid waste facilities or infectious waste treatment 33506
facilities; 33507

(6)(a) All employees of a board of health who, on the 33508
effective date of the rules adopted under this division, are 33509
responsible for enforcing the solid waste or infectious waste 33510
provisions of this chapter and the rules adopted under them shall 33511
complete the course and be certified by the director not later 33512
than January 1, 1995; 33513

(b) All employees of a board of health who, after the 33514
effective date of the rules adopted under division (L) of this 33515
section, become responsible for enforcing the solid waste or 33516
infectious waste provisions of this chapter and rules adopted 33517
under them and who do not hold a current and valid certification 33518
from the director at that time shall complete the course and be 33519
certified by the director within two years after becoming 33520
responsible for performing those activities. 33521

No person shall fail to obtain the certification required 33522
under this division. 33523

(M) The director shall not issue a permit under section 33524
3734.05 of the Revised Code to establish a solid waste facility, 33525
or to modify a solid waste facility operating on December 21, 33526
1988, in a manner that expands the disposal capacity or geographic 33527
area covered by the facility, that is or is to be located within 33528
the boundaries of a state park established or dedicated under 33529
Chapter 1541. of the Revised Code, a state park purchase area 33530
established under section 1541.02 of the Revised Code, any unit of 33531
the national park system, or any property that lies within the 33532
boundaries of a national park or recreation area, but that has not 33533

been acquired or is not administered by the secretary of the 33534
United States department of the interior, located in this state, 33535
or any candidate area located in this state and identified for 33536
potential inclusion in the national park system in the edition of 33537
the "national park system plan" submitted under paragraph (b) of 33538
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 33539
U.S.C.A. 1a-5, as amended, current at the time of filing of the 33540
application for the permit, unless the facility or proposed 33541
facility is or is to be used exclusively for the disposal of solid 33542
wastes generated within the park or recreation area and the 33543
director determines that the facility or proposed facility will 33544
not degrade any of the natural or cultural resources of the park 33545
or recreation area. The director shall not issue a variance under 33546
division (A) of this section and rules adopted under it, or issue 33547
an exemption order under division (G) of this section, that would 33548
authorize any such establishment or expansion of a solid waste 33549
facility within the boundaries of any such park or recreation 33550
area, state park purchase area, or candidate area, other than a 33551
solid waste facility exclusively for the disposal of solid wastes 33552
generated within the park or recreation area when the director 33553
determines that the facility will not degrade any of the natural 33554
or cultural resources of the park or recreation area. 33555

(N)(1) The rules adopted under division (A) of this section, 33556
other than those governing variances, do not apply to scrap tire 33557
collection, storage, monocell, monofill, and recovery facilities. 33558
Those facilities are subject to and governed by rules adopted 33559
under sections 3734.70 to 3734.73 of the Revised Code, as 33560
applicable. 33561

(2) Division (C) of this section does not apply to scrap tire 33562
collection, storage, monocell, monofill, and recovery facilities. 33563
The establishment and modification of those facilities are subject 33564
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 33565

Code, as applicable. 33566

(3) The director may adopt, amend, suspend, or rescind rules 33567
under division (A) of this section creating an alternative system 33568
for authorizing the establishment, operation, or modification of a 33569
solid waste compost facility in lieu of the requirement that a 33570
person seeking to establish, operate, or modify a solid waste 33571
compost facility apply for and receive a permit under division (C) 33572
of this section and section 3734.05 of the Revised Code and a 33573
license under division (A)(1) of that section. The rules may 33574
include requirements governing, without limitation, the 33575
classification of solid waste compost facilities, the submittal of 33576
operating records for solid waste compost facilities, and the 33577
creation of a registration or notification system in lieu of the 33578
issuance of permits and licenses for solid waste compost 33579
facilities. The rules shall specify the applicability of divisions 33580
(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised 33581
Code to a solid waste compost facility. 33582

Sec. 3734.021. Infectious wastes shall be segregated, 33583
packaged, treated, transported, and disposed of in accordance with 33584
rules adopted under this section. 33585

The director of environmental protection, in accordance with 33586
Chapter 119. of the Revised Code, shall adopt, and may amend and 33587
rescind, rules necessary or appropriate to protect human health or 33588
safety or the environment+ as specified in divisions (A) to (D) of 33589
this section. 33590

(A) ~~Establishing~~ The director shall adopt rules establishing 33591
standards for generators of infectious wastes that ~~include~~ are 33592
substantively equivalent to the standards established in 49 U.S.C. 33593
subtitle III, chapter 51, and regulations adopted or orders issued 33594
under it, including, without limitation, the following 33595
requirements and authorizations that: 33596

(1) ~~All generators~~ Each generator of infectious wastes shall: 33597

(a) Place all infectious wastes ~~identified in division (R)(7)~~ 33598
~~of section 3734.01 of the Revised Code, and all unused, discarded~~ 33599
~~hypodermic needles, syringes, and scalpel blades, in rigid,~~ 33600
~~tightly closed, puncture resistant containers on the premises~~ 33601
~~where they are generated before they are transported off that~~ 33602
~~premises. Containers containing such wastes shall be labeled~~ 33603
~~"sharps" and, if the wastes have not been treated to render them~~ 33604
~~noninfectious, shall be conspicuously labeled with the~~ 33605
~~international biohazard symbol. in packaging that is consistent~~ 33606
~~with federal standards governing hazardous materials;~~ 33607

(b) Either treat all specimen cultures and cultures of viable 33608
infectious agents on the premises where they are generated to 33609
render them noninfectious by methods, techniques, or practices 33610
prescribed by rules adopted under division (C)(1) of this section 33611
before they are transported off that premises for disposal or 33612
ensure that such wastes are treated to render them noninfectious 33613
at an infectious waste treatment facility off that premises that 33614
is owned or operated by the generator, an infectious waste 33615
treatment facility that holds a license issued under division (B) 33616
of section 3734.05 of the Revised Code, an infectious waste 33617
treatment facility that is located in another state that is in 33618
compliance with applicable state and federal laws, or a treatment 33619
facility that is authorized by rules adopted under division (C)(6) 33620
of this section, prior to disposal of the wastes-; 33621

(c) ~~Except as otherwise provided in division (A)(1)(c) of~~ 33622
~~this section, wastes generated by a generator who~~ If the generator 33623
produces fewer than fifty pounds of infectious wastes during any 33624
one month that are subject to and packaged and labeled in 33625
accordance with rules adopted under division (A)(1)(a) of this 33626
section ~~shall be transported,~~ transport the wastes in accordance 33627
with federal standards governing hazardous materials and disposed 33628

dispose of them in the same manner as solid wastes. Such 33629
generators who treat specimen cultures and cultures of viable 33630
infectious agents on the premises where they are generated shall 33631
not be considered treatment facilities as "treatment" and 33632
"facility" are defined in section 3734.01 of the Revised Code. 33633

(d) ~~Wastes~~ Transport and dispose of wastes that are subject 33634
to and treated in accordance with rules adopted under division 33635
(A)(1)(b) of this section ~~shall be transported and disposed of~~ in 33636
the same manner as solid wastes. ~~i~~ 33637

(e) For the purposes of this section and rules adopted under 33638
it, ~~ne~~ not consider wastes consisting of dead animals or parts 33639
thereof ~~shall be considered~~ when determining the quantity of 33640
infectious wastes produced by ~~any~~ that generator if the dead 33641
animals or parts meet either of the following: 33642

(i) Were not intentionally exposed to infectious agents 33643
during research, production of biologicals, or testing of 33644
pharmaceuticals; 33645

(ii) Either were produced by a veterinarian holding a license 33646
issued under Chapter 4741. of the Revised Code or were treated or 33647
disposed of by a person holding a license issued under Chapter 33648
953. of the Revised Code. 33649

(f) For the purposes of this section and rules adopted under 33650
it, ~~ne~~ not consider blood, blood products, other body fluids, or 33651
embalming fluids that are discharged on the site of their 33652
generation into a disposal system, as defined in section 6111.01 33653
of the Revised Code, by a facility that holds a license or renewal 33654
of a license issued under Chapter 4717. of the Revised Code ~~shall~~ 33655
~~be considered~~ when determining the quantity of infectious wastes 33656
produced by that generator. 33657

~~(g) Wastes generated by a generator who produces fewer than 33658
fifty pounds of infectious wastes during any one month that are 33659~~

~~subject to and packaged in accordance with rules adopted under 33660
division (A)(1)(a) of this section may be transported to a 33661
treatment facility owned or operated by a hospital with which the 33662
generator has staff privileges, as "hospital" is defined in 33663
section 3727.01 of the Revised Code. Such a generator who so 33664
transports infectious wastes, other than untreated specimen 33665
cultures and cultures and stocks of viable infectious agents, that 33666
are generated on the generator's premises is not a transporter for 33667
the purposes of this section or section 3734.022 of the Revised 33668
Code. 33669~~

~~(h)(2) Wastes generated in providing care to a patient by an 33670
emergency medical services organization, as defined in section 33671
4765.01 of the Revised Code, may be taken to and left at a 33672
hospital, as defined in section 3727.01 of the Revised Code, for 33673
treatment at a treatment facility owned or operated by the 33674
hospital or, in conjunction with infectious wastes generated by 33675
the hospital, at another treatment facility regardless of whether 33676
the wastes were generated in providing care to the patient at the 33677
scene of an emergency or during the transportation of the patient 33678
to a hospital. An emergency medical services organization that 33679
transports infectious wastes that are so generated to a hospital 33680
for that purpose is not a transporter for the purposes of this 33681
section or section 3734.022 of the Revised Code. 33682~~

~~(i)(3) Wastes generated by an individual for purposes of the 33683
individual's own care or treatment may be taken to and left at a 33684
hospital, as defined in section 3727.01 of the Revised Code, for 33685
treatment at a treatment facility owned or operated by the 33686
hospital or, in conjunction with infectious wastes generated by 33687
the hospital, at another treatment facility. An individual or 33688
member of an individual's household who transports wastes so 33689
generated by the individual to a hospital for that purpose is not 33690
a transporter for the purposes of this section or section 3734.022 33691~~

of the Revised Code. 33692

~~(2)~~(4) Each generator of fifty pounds or more of infectious 33693
wastes during any one month: 33694

(a) ~~Register~~ Shall register with the environmental protection 33695
agency as a generator of infectious wastes and obtain a 33696
registration certificate. The fee for issuance of a generator 33697
registration certificate is three hundred dollars payable at the 33698
time of application. The registration certificate applies to all 33699
the premises owned or operated by the generator in this state 33700
where infectious wastes are generated and shall list the address 33701
of each such premises. If a generator owns or operates facilities 33702
for the treatment of infectious wastes it generates, the 33703
certificate shall list the address and method of treatment used at 33704
each such facility. 33705

A generator registration certificate is valid for three years 33706
from the date of issuance and shall be renewed for a term of three 33707
years upon the generator's submission of an application for 33708
renewal and payment of a three hundred dollar renewal fee. 33709

The rules may establish a system of staggered renewal dates 33710
with approximately one-third of such certificates subject to 33711
renewal each year. The applicable renewal date shall be prescribed 33712
on each registration certificate. Registration fees shall be 33713
prorated according to the time remaining in the registration cycle 33714
to the nearest year. 33715

The registration and renewal fees shall be credited to the 33716
infectious wastes management fund, hereby created in the state 33717
treasury. 33718

(b) ~~Segregate~~ Shall segregate infectious wastes from other 33719
wastes at the point of generation. Nothing in this section and 33720
rules adopted under it prohibits a generator of infectious wastes 33721
from designating and managing wastes, in addition to those defined 33722

as infectious wastes under section 3734.01 of the Revised Code, as 33723
infectious wastes when, in the judgment of the generator, those 33724
other wastes should be managed as infectious wastes because they 33725
are, or are likely to be, contaminated with infectious agents. 33726
After designating any such other wastes as infectious, the 33727
generator shall manage those wastes in compliance with the 33728
requirements of this chapter and rules adopted under it applicable 33729
to the management of infectious wastes. 33730

(c) For purposes of containment, shall place infectious 33731
~~wastes, other than those subject to rules adopted under division~~ 33732
~~(A)(1)(a) of this section, in plastic bags that are impervious to~~ 33733
~~moisture and are sufficiently strong to preclude ripping, tearing,~~ 33734
~~or bursting under normal conditions of handling and ensure that~~ 33735
~~the filled bags are securely tied to prevent leakage or expulsion~~ 33736
~~of the wastes from them during storage, handling, or transport.~~ 33737
~~The generator shall ensure that, prior to transportation off the~~ 33738
~~premises where generated, infectious wastes that have not been~~ 33739
~~treated to render them noninfectious, other than those subject to~~ 33740
~~division (A)(1)(a) of this section, are contained in bags that~~ 33741
~~either are red in color or conspicuously labeled with the~~ 33742
~~international biohazard symbol. in packaging that is consistent~~ 33743
~~with federal standards governing hazardous materials;~~ 33744

(d) ~~Either~~ Shall either treat the infectious wastes that it 33745
generates at a facility owned or operated by the generator by 33746
methods, techniques, or practices prescribed by rules adopted 33747
under division (C)(1) of this section to render them 33748
noninfectious, or designate the wastes for treatment off that 33749
premises at an infectious waste treatment facility holding a 33750
license issued under division (B) of section 3734.05 of the 33751
Revised Code, at an infectious waste treatment facility that is 33752
located in another state that is in compliance with applicable 33753
state and federal laws, or at a treatment facility authorized by 33754

rules adopted under division (C)(6) of this section, prior to 33755
disposal of the wastes. After being treated to render them 33756
noninfectious, the wastes shall be disposed of at a solid waste 33757
disposal facility holding a license issued under division (A) of 33758
section 3734.05 of the Revised Code or at a disposal facility in 33759
another state that is in compliance with applicable state and 33760
federal laws. 33761

(e) ~~Not~~ Shall not grind any infectious wastes identified in 33762
division (R)(7) of section 3734.01 of the Revised Code, not 33763
compact any such wastes until after the wastes have been treated 33764
in accordance with rules adopted under divisions (C)(1) and (3) of 33765
this section, and not compact or grind any other type of 33766
infectious wastes until after the wastes have been treated in 33767
accordance with rules adopted under division (C)(1) of this 33768
section; 33769

(f) May discharge untreated liquid or semiliquid infectious 33770
wastes consisting of blood, blood products, body fluids, and 33771
excreta into a disposal system, as defined in section 6111.01 of 33772
the Revised Code, unless the discharge of those wastes into a 33773
disposal system is inconsistent with the terms and conditions of 33774
the permit for the system issued under Chapter 6111. of the 33775
Revised Code; 33776

(g) ~~Employ~~ Shall employ only transporters who are registered 33777
under section 3734.022 of the Revised Code to transport off the 33778
premises where they were generated infectious wastes that have not 33779
been treated to render them noninfectious; 33780

(h) ~~Cause~~ Shall cause all infectious wastes that have not 33781
been treated to render them noninfectious, and those subject to 33782
rules adopted under division (A)(1)(a) of this section that have 33783
not also been treated in accordance with rules adopted under 33784
division (C)(3) of this section, to be transported in shipments 33785
consisting only of untreated infectious wastes; 33786

(i) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious, and those wastes subject to rules adopted under division (A)(1)(a) of this section that have also been treated in accordance with rules adopted under division (C)(3) of this section, in the same manner as solid wastes are transported;

(j) ~~Provide~~ Shall provide information on the composition of its infectious wastes, the treatment of the wastes to render them noninfectious, and the generator's system for distinguishing between waste packages that contain treated and untreated wastes to persons with whom the generator has entered into a contract or agreement to transport, treat, or dispose of the wastes upon receiving a written request from those persons;

(k) ~~Ensure~~ Shall ensure that all infectious wastes, whether treated or untreated, that are transported off the premises where they are generated are accompanied by a shipping paper that ~~meets the requirements of rules adopted under division (D)(1) or (2) of this section, as appropriate~~ is consistent with federal standards governing hazardous materials shipping papers.

(B) ~~Establishing~~ The director shall adopt rules establishing standards for transporters of infectious wastes that ~~include, without limitation, the following requirements that the transporters:~~

~~(1) Transport only properly packaged and labeled wastes;~~

~~(2) Transport wastes that have not been treated to render them noninfectious only in a leak resistant, fully covered vehicle compartment;~~

~~(3) Not compact infectious wastes that have not been treated to render them noninfectious and not compact any infectious wastes subject to rules adopted under division (A)(1)(a) of this section that have not also been treated in accordance with rules adopted~~

~~under division (C)(3) of this section;~~ 33818

~~(4) Transport infectious wastes that have not been treated to render them noninfectious and infectious wastes subject to rules adopted under division (A)(1)(a) of this section, that have not also been treated in accordance with rules adopted under division (C)(3) of this section, in shipments consisting only of untreated infectious wastes;~~ 33819
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~~(5) Transport infectious wastes that have been treated to render them noninfectious, and, in the case of wastes subject to rules adopted under division (A)(1)(a) of this section, have also been treated in accordance with rules adopted under division (C)(3) of this section, in the same manner as solid wastes;~~ 33825
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~~(6) Promptly disinfect surfaces of transport vehicles that have had untreated infectious wastes leaked or spilled onto them, in accordance with methods prescribed by the director by rule;~~ 33830
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~~(7) Transport infectious wastes that have not been treated to render them noninfectious only to an infectious waste treatment facility holding an operating license issued under division (B) of section 3734.05 of the Revised Code, to an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, to a treatment facility authorized by rules adopted under division (C)(6) of this section, or to an infectious waste treatment facility owned or operated by the generator of the wastes. If the generator designates a treatment facility on the shipping paper accompanying the wastes, the transporter shall deliver the wastes to that treatment facility.~~ 33833
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~~(8) Comply with the shipping paper system established by rules adopted under division (D) of this section are substantively equivalent to the standards established in 49 U.S.C. subtitle III, chapter 51, and regulations adopted or orders issued under it.~~ 33845
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(C) ~~Establishing~~ The director shall adopt rules establishing 33849
standards for owners and operators of infectious waste treatment 33850
facilities that include, without limitation, the following 33851
requirements and authorizations that: 33852

(1) Treatment of all wastes received be performed in 33853
accordance with methods, techniques, and practices approved by the 33854
director; 33855

(2) Govern the location, design, construction, and operation 33856
of infectious waste treatment facilities. The rules adopted under 33857
division (C)(2) of this section shall require that a new 33858
infectious waste incineration facility be located so that the 33859
incinerator unit and all areas where infectious wastes are handled 33860
on the premises where the facility is proposed to be located are 33861
at least three hundred feet inside the property line of the tract 33862
of land on which the facility is proposed to be located and are at 33863
least one thousand feet from any domicile, school, prison, or jail 33864
that is in existence on the date on which the application for the 33865
permit to establish the incinerator is submitted under division 33866
(B)(2)(b) of section 3734.05 of the Revised Code. 33867

(3) Establish methods, techniques, and practices for 33868
treatment of wastes subject to rules adopted under division 33869
(A)(1)(a) of this section that may be used to substantially reduce 33870
or eliminate the potential of those wastes to cause lacerations or 33871
puncture wounds during handling, transportation, and disposal; 33872

(4) Establish quality control and testing procedures to 33873
ensure compliance with the rules adopted under divisions (C)(2) 33874
and (3) of this section; 33875

(5) Owners and operators of such facilities comply with the 33876
shipping paper system established by rules adopted under division 33877
(D) of this section; 33878

(6) Infectious wastes may be treated at a facility that holds 33879

a license or renewal of a license to operate a crematory facility 33880
issued under Chapter 4717., and a permit issued under Chapter 33881
3704., of the Revised Code to the extent that the treatment of 33882
those wastes is consistent with that permit and its terms and 33883
conditions. The rules adopted under divisions (C)(2) and (4) of 33884
this section do not apply to a facility holding such a license and 33885
permit. 33886

In adopting the rules required by divisions (C)(1) to (4) of 33887
this section, the director shall consider and, to the maximum 33888
feasible extent, utilize existing standards and guidelines 33889
established by professional and governmental organizations having 33890
expertise in the fields of infection control and infectious wastes 33891
management. 33892

(D) ~~Establishing~~ The director shall adopt rules establishing 33893
standards for a system of shipping papers to accompany shipments 33894
of infectious wastes that are transported off the premises where 33895
they are generated, ~~including the following requirements:~~ 33896

~~(1) Shipping papers that accompany shipments of wastes that~~ 33897
~~have not been treated to render them noninfectious shall include~~ 33898
~~the following elements:~~ 33899

~~(a) The name of the generator and address of the premises~~ 33900
~~where the wastes were generated;~~ 33901

~~(b) A brief, general description of the nature of the wastes~~ 33902
~~being shipped;~~ 33903

~~(c) A method by which the person causing the transportation~~ 33904
~~of a shipment of wastes may designate the treatment or disposal~~ 33905
~~facility, as appropriate, to which the transporter shall deliver~~ 33906
~~the wastes;~~ 33907

~~(d) The requirement that when a shipment of wastes is~~ 33908
~~transported off the premises where generated to a treatment~~ 33909

~~facility owned or operated by the generator, the shipment need not
be accompanied by a shipping paper and that, after treatment, the
generator shall prepare a shipping paper that meets the
requirements of rules adopted under division (D)(2) of this
section to accompany the further shipment of the treated wastes to
a solid waste disposal facility. When a shipment of untreated
wastes is transported to a treatment facility not owned or
operated by the generator of the waste, the owner or operator of
the treatment facility shall prepare a separate shipping paper
that meets the requirements of rules adopted under division (D)(2)
of this section to accompany the shipment of the treated wastes
from the owner's or operator's premises to a solid waste disposal
facility.~~

~~(c) A certification by the person causing the wastes to be
transported that the wastes are packaged and labeled in accordance
with the rules adopted under this section and that the description
of the wastes is accurate.~~

~~(2) Shipping papers that accompany shipments of wastes that
have been treated to render them noninfectious shall include only
the following elements:~~

~~(a) The name of the owner or operator of the facility where
the wastes were treated and the address of the treatment facility;~~

~~(b) A certification by the owner or operator of the treatment
facility where the wastes were treated that the wastes have been
treated by methods, techniques, and practices prescribed by rules
adopted under division (C)(1) of this section. If the treated
wastes are to be compacted prior to transportation and contain any
wastes subject to rules adopted under division (A)(1)(a) of this
section, the shipping paper shall include an additional
certification by the owner or operator of the treatment facility
where the wastes were treated that they also have been treated in~~

accordance with rules adopted under division (C)(3) of this section that are substantively equivalent to the standards established in 49 U.S.C. subtitle III, chapter 51, and regulations adopted or orders issued under it. 33941
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(E) This section and rules adopted under it do not apply to the treatment or disposal of wastes consisting of dead animals or parts thereof, or the blood of animals under any of the following circumstances: 33945
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(1) By the owner of the animal after slaughter by the owner on the owner's premises to obtain meat for consumption by the owner and the members of the owner's household; 33949
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(2) In accordance with Chapter 941. of the Revised Code; ~~or~~ 33952

(3) By persons who are subject to any of the following: 33953

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 33954
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(b) Chapter 918. of the Revised Code; 33956

(c) Chapter 953. of the Revised Code. 33957

(F) As used in this section and section 3734.022 of the Revised Code, "generator" means a person who produces infectious wastes. 33958
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(G) Rules adopted under this section shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating infectious waste treatment facilities. 33961
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(H) The director shall not issue any variance from the rules adopted under this section. 33965
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Sec. 3734.022. (A) No person shall transport infectious wastes that have not been treated to render them noninfectious, other than those disposed of with residential solid waste from a 33967
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single-family residential premises or single-family dwelling unit 33970
and those subject to rules adopted under division (A)(1)(c) of 33971
section 3734.021 of the Revised Code, unless the business entity 33972
that employs the person first registers with and obtains a 33973
registration certificate from the director of environmental 33974
protection or, in the instance of infectious wastes consisting of 33975
dead animals or parts thereof subject to Chapter 953. of the 33976
Revised Code, unless the business entity that employs the person 33977
holds a valid license issued under that chapter. No more than one 33978
registration certificate shall be required of any single business 33979
entity. An applicant shall file an application with the director 33980
containing such information in such form as the director 33981
prescribes. Each application for a registration certificate shall 33982
be accompanied by a registration fee equal to the product of three 33983
hundred dollars times the number of motor vehicles the transporter 33984
uses to transport untreated infectious wastes in shipments that 33985
originate or terminate in the state. However, a generator of 33986
infectious wastes holding a valid registration certificate as a 33987
generator of those wastes issued under rules adopted under 33988
division (A)~~(2)~~(4)(a) of section 3734.021 of the Revised Code who 33989
transports only infectious wastes generated at premises owned or 33990
operated by the generator is exempt from payment of the fee for 33991
registration as a transporter. 33992

Except as otherwise provided in rules adopted under this 33993
division, a registered transporter shall obtain an amended 33994
registration certificate from the director whenever the 33995
composition of the fleet of motor vehicles used by the transporter 33996
to transport infectious wastes changes. If the number of motor 33997
vehicles in the fleet decreases, the director shall not refund to 33998
the transporter any portion of a registration or renewal fee 33999
applicable to a motor vehicle transferred or otherwise removed 34000
from use for transporting such wastes. If the number of motor 34001
vehicles in the transporter's fleet increases, the application for 34002

the amended registration certificate shall be accompanied by a fee 34003
of three hundred dollars for each motor vehicle that is in excess 34004
of the number of motor vehicles set forth in the existing 34005
certificate. If the director has established a system of staggered 34006
renewal dates for the registration certificates, the fee 34007
applicable to each additional motor vehicle under an amended 34008
certificate shall be prorated according to the time remaining in 34009
the registration cycle, to the nearest year. 34010

A registration certificate issued under this section is valid 34011
for three years from the date of issuance and may be renewed for a 34012
term of three years by submission of a renewal application on a 34013
form prescribed by the director and payment of a renewal fee 34014
calculated in the same manner as the fee for a registration 34015
certificate. The registration and renewal fees shall be credited 34016
to the infectious wastes management fund created in section 34017
3734.021 of the Revised Code. 34018

The director, by rules adopted in accordance with Chapter 34019
119. of the Revised Code, may establish a system of staggered 34020
renewal dates with approximately one-third of the certificates 34021
subject to renewal each year. The applicable renewal date shall be 34022
prescribed on each registration certificate. Registration fees 34023
shall be prorated according to the time remaining in the 34024
registration cycle to the nearest year. 34025

The director, by rules adopted in accordance with Chapter 34026
119. of the Revised Code, shall establish a system of emergency 34027
registration of temporary vehicles for use by a business entity 34028
holding a valid registration certificate issued under this 34029
section, in order to prevent the creation of a nuisance or hazard 34030
to the public health or safety or the environment. 34031

(B) A Unless prohibited pursuant to 49 U.S.C. subtitle III, 34032
chapter 51, and regulations adopted or orders issued under it, a 34033

registered transporter is liable for the safe delivery of any 34034
infectious wastes from the time ~~he~~ the registered transporter 34035
obtains the wastes until ~~he~~ the registered transporter delivers 34036
them to an infectious waste treatment facility holding a license 34037
issued under division (B) of section 3734.05 of the Revised Code, 34038
to an infectious waste treatment facility that is located in 34039
another state and is in compliance with applicable state and 34040
federal laws, to a treatment facility authorized by rules adopted 34041
under division (C)(6) of section 3734.021 of the Revised Code, to 34042
an infectious waste treatment facility owned or operated by the 34043
generator of the waste, or, in the instance of wastes that have 34044
been treated to render them noninfectious, to a solid waste 34045
disposal facility holding a license issued under division (A) of 34046
section 3734.05 of the Revised Code or to a disposal facility that 34047
is located in another state and is in compliance with applicable 34048
state and federal laws. ~~If the generator of the wastes has~~ 34049
~~designated in the shipping paper accompanying the wastes required~~ 34050
~~by rules adopted under division (D)(1) of section 3734.021 of the~~ 34051
~~Revised Code a particular treatment facility, the registered~~ 34052
~~transporter is liable for the safe delivery of the wastes to the~~ 34053
~~facility so designated.~~ 34054

If the director has reason to believe that a person who is 34055
registered under this section or is employed by a business entity 34056
registered under this section has violated this chapter or any 34057
rule adopted under it while transporting infectious wastes, the 34058
director may issue an order in accordance with Chapter 119. of the 34059
Revised Code suspending, revoking, or denying the transporter's 34060
registration certificate or the registration certificate of the 34061
business entity employing ~~him~~ the person as a transporter. A 34062
transporter whose registration certificate has been suspended, 34063
revoked, or denied shall immediately notify each of ~~his~~ the 34064
transporter's customers by certified mail of that fact. 34065

(C)(1) No person who generates infectious wastes that have 34066
not been treated to render them noninfectious shall cause any such 34067
wastes, other than those subject to rules adopted under division 34068
(A)(1)(c) of section 3734.021 or Chapter 953. of the Revised Code, 34069
to be transported by any person who is not registered as a 34070
transporter under this section. 34071

(2) No person who generates infectious wastes subject to 34072
Chapter 953. of the Revised Code shall cause those wastes to be 34073
transported by any person who is neither licensed under that 34074
chapter nor registered as a transporter under this section. 34075

(D) A generator ~~of infectious wastes~~ who has complied with 34076
this section and section 3734.021 of the Revised Code and with 34077
rules adopted under those sections is not liable under statute or 34078
common law for the actions or inactions of any transporter or 34079
treatment facility with respect to those wastes and is not liable 34080
for violations of any provision of this chapter or rules adopted 34081
under it governing the transportation, treatment, or disposal of 34082
infectious wastes. 34083

(E) As used in this section, "motor vehicle" means any 34084
automobile, automobile truck, tractor, or self-propelled vehicle 34085
not operated or driven on fixed rails or track. 34086

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), 34087
(8), and (9) of this section, no person shall operate or maintain 34088
a solid waste facility without a license issued under this 34089
division by the board of health of the health district in which 34090
the facility is located or by the director of environmental 34091
protection when the health district in which the facility is 34092
located is not on the approved list under section 3734.08 of the 34093
Revised Code. 34094

During the month of December, but before the first day of 34095

January of the next year, every person proposing to continue to
operate an existing solid waste facility shall procure a license
under this division to operate the facility for that year from the
board of health of the health district in which the facility is
located or, if the health district is not on the approved list
under section 3734.08 of the Revised Code, from the director. The
application for such a license shall be submitted to the board of
health or to the director, as appropriate, on or before the last
day of September of the year preceding that for which the license
is sought. In addition to the application fee prescribed in
division (A)(2) of this section, a person who submits an
application after that date shall pay an additional ten per cent
of the amount of the application fee for each week that the
application is late. Late payment fees accompanying an application
submitted to the board of health shall be credited to the special
fund of the health district created in division (B) of section
3734.06 of the Revised Code, and late payment fees accompanying an
application submitted to the director shall be credited to the
general revenue fund. A person who has received a license, upon
sale or disposition of a solid waste facility, and upon consent of
the board of health and the director, may have the license
transferred to another person. The board of health or the director
may include such terms and conditions in a license or revision to
a license as are appropriate to ensure compliance with this
chapter and rules adopted under it. The terms and conditions may
establish the authorized maximum daily waste receipts for the
facility. Limitations on maximum daily waste receipts shall be
specified in cubic yards of volume for the purpose of regulating
the design, construction, and operation of solid waste facilities.
Terms and conditions included in a license or revision to a
license by a board of health shall be consistent with, and pertain
only to the subjects addressed in, the rules adopted under
division (A) of section 3734.02 and division (D) of section

3734.12 of the Revised Code. 34129

(2)(a) Except as provided in divisions (A)(2)(b), (8), and 34130
(9) of this section, each person proposing to open a new solid 34131
waste facility or to modify an existing solid waste facility shall 34132
submit an application for a permit with accompanying detail plans 34133
and specifications to the environmental protection agency for 34134
required approval under the rules adopted by the director pursuant 34135
to division (A) of section 3734.02 of the Revised Code and 34136
applicable rules adopted under division (D) of section 3734.12 of 34137
the Revised Code at least two hundred seventy days before proposed 34138
operation of the facility and shall concurrently make application 34139
for the issuance of a license under division (A)(1) of this 34140
section with the board of health of the health district in which 34141
the proposed facility is to be located. 34142

(b) On and after the effective date of the rules adopted 34143
under division (A) of section 3734.02 of the Revised Code and 34144
division (D) of section 3734.12 of the Revised Code governing 34145
solid waste transfer facilities, each person proposing to open a 34146
new solid waste transfer facility or to modify an existing solid 34147
waste transfer facility shall submit an application for a permit 34148
with accompanying engineering detail plans, specifications, and 34149
information regarding the facility and its method of operation to 34150
the environmental protection agency for required approval under 34151
those rules at least two hundred seventy days before commencing 34152
proposed operation of the facility and concurrently shall make 34153
application for the issuance of a license under division (A)(1) of 34154
this section with the board of health of the health district in 34155
which the facility is located or proposed. 34156

(c) Each application for a permit under division (A)(2)(a) or 34157
(b) of this section shall be accompanied by a nonrefundable 34158
application fee of four hundred dollars that shall be credited to 34159
the general revenue fund. Each application for an annual license 34160

under division (A)(1) or (2) of this section shall be accompanied 34161
by a nonrefundable application fee of one hundred dollars. If the 34162
application for an annual license is submitted to a board of 34163
health on the approved list under section 3734.08 of the Revised 34164
Code, the application fee shall be credited to the special fund of 34165
the health district created in division (B) of section 3734.06 of 34166
the Revised Code. If the application for an annual license is 34167
submitted to the director, the application fee shall be credited 34168
to the general revenue fund. If a permit or license is issued, the 34169
amount of the application fee paid shall be deducted from the 34170
amount of the permit fee due under division (Q) of section 3745.11 34171
of the Revised Code or the amount of the license fee due under 34172
division (A)(1), (2), (3), or (4) of section 3734.06 of the 34173
Revised Code. 34174

(d) As used in divisions (A)(2)(d), (e), and (f) of this 34175
section, "modify" means any of the following: 34176

(i) Any increase of more than ten per cent in the total 34177
capacity of a solid waste facility; 34178

(ii) Any expansion of the limits of solid waste placement at 34179
a solid waste facility; 34180

(iii) Any increase in the depth of excavation at a solid 34181
waste facility; 34182

(iv) Any change in the technique of waste receipt or type of 34183
waste received at a solid waste facility that may endanger human 34184
health, as determined by the director by rules adopted in 34185
accordance with Chapter 119. of the Revised Code. 34186

Not later than thirty-five days after submitting an 34187
application under division (A)(2)(a) or (b) of this section for a 34188
permit to open a new or modify an existing solid waste facility, 34189
the applicant, in conjunction with an officer or employee of the 34190
environmental protection agency, shall hold a public meeting on 34191

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
chief executive officer of each municipal corporation, in which
the facility is or is proposed to be located. At the public
meeting, the applicant shall provide information and describe the
application and respond to comments or questions concerning the
application, and the officer or employee of the agency shall
describe the permit application process. At the public meeting,
any person may submit written or oral comments on or objections to
the application. Not more than thirty days after the public
meeting, the applicant shall provide the director with a copy of a
transcript of the full meeting, copies of any exhibits, displays,
or other materials presented by the applicant at the meeting, and
the original copy of any written comments submitted at the
meeting.

(e) Except as provided in division (A)(2)(f) of this section,
prior to taking an action, other than a proposed or final denial,
upon an application submitted under division (A)(2)(a) of this
section for a permit to open a new or modify an existing solid

waste facility, the director shall hold a public information session and a public hearing 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. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published 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 director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or

representative by the officer or employee of the environmental 34257
protection agency presiding at the information session and 34258
hearing. 34259

(f) The solid waste management policy committee of a county 34260
or joint solid waste management district may adopt a resolution 34261
requesting expeditious consideration of a specific application 34262
submitted under division (A)(2)(a) of this section for a permit to 34263
modify an existing solid waste facility within the district. The 34264
resolution shall make the finding that expedited consideration of 34265
the application without the public information session and public 34266
hearing under division (A)(2)(e) of this section is in the public 34267
interest and will not endanger human health, as determined by the 34268
director by rules adopted in accordance with Chapter 119. of the 34269
Revised Code. Upon receiving such a resolution, the director, at 34270
the director's discretion, may issue a final action upon the 34271
application without holding a public information session or public 34272
hearing pursuant to division (A)(2)(e) of this section. 34273

(3) Except as provided in division (A)(10) of this section, 34274
and unless the owner or operator of any solid waste facility, 34275
other than a solid waste transfer facility or a compost facility 34276
that accepts exclusively source separated yard wastes, that 34277
commenced operation on or before July 1, 1968, has obtained an 34278
exemption from the requirements of division (A)(3) of this section 34279
in accordance with division (G) of section 3734.02 of the Revised 34280
Code, the owner or operator shall submit to the director an 34281
application for a permit with accompanying engineering detail 34282
plans, specifications, and information regarding the facility and 34283
its method of operation for approval under rules adopted under 34284
division (A) of section 3734.02 of the Revised Code and applicable 34285
rules adopted under division (D) of section 3734.12 of the Revised 34286
Code in accordance with the following schedule: 34287

(a) Not later than September 24, 1988, if the facility is 34288

located in the city of Garfield Heights or Parma in Cuyahoga	34289
county;	34290
(b) Not later than December 24, 1988, if the facility is	34291
located in Delaware, Greene, Guernsey, Hamilton, Madison,	34292
Mahoning, Ottawa, or Vinton county;	34293
(c) Not later than March 24, 1989, if the facility is located	34294
in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or	34295
Washington county, or is located in the city of Brooklyn or	34296
Cuyahoga Heights in Cuyahoga county;	34297
(d) Not later than June 24, 1989, if the facility is located	34298
in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or	34299
Summit county or is located in Cuyahoga county outside the cities	34300
of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;	34301
(e) Not later than September 24, 1989, if the facility is	34302
located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross	34303
county;	34304
(f) Not later than December 24, 1989, if the facility is	34305
located in a county not listed in divisions (A)(3)(a) to (e) of	34306
this section;	34307
(g) Notwithstanding divisions (A)(3)(a) to (f) of this	34308
section, not later than December 31, 1990, if the facility is a	34309
solid waste facility owned by a generator of solid wastes when the	34310
solid waste facility exclusively disposes of solid wastes	34311
generated at one or more premises owned by the generator	34312
regardless of whether the facility is located on a premises where	34313
the wastes are generated and if the facility disposes of more than	34314
one hundred thousand tons of solid wastes per year, provided that	34315
any such facility shall be subject to division (A)(5) of this	34316
section.	34317
(4) Except as provided in divisions (A)(8), (9), and (10) of	34318

this section, unless the owner or operator of any solid waste
facility for which a permit was issued after July 1, 1968, but
before January 1, 1980, has obtained an exemption from the
requirements of division (A)(4) of this section under division (G)
of section 3734.02 of the Revised Code, the owner or operator
shall submit to the director an application for a permit with
accompanying engineering detail plans, specifications, and
information regarding the facility and its method of operation for
approval under those rules.

(5) The director may issue an order in accordance with
Chapter 3745. of the Revised Code to the owner or operator of a
solid waste facility requiring the person to submit to the
director updated engineering detail plans, specifications, and
information regarding the facility and its method of operation for
approval under rules adopted under division (A) of section 3734.02
of the Revised Code and applicable rules adopted under division
(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,
allow methane gas migration to occur, or cause or contribute to
any other type of environmental damage.

If an emergency need for disposal capacity that may affect
public health and safety exists as a result of closure of a
facility under division (A)(6) of this section, the director may
issue an order designating another solid waste facility to accept
the wastes that would have been disposed of at the facility to be
closed.

(7) If the director determines that standards more stringent
than those applicable in rules adopted under division (A) of
section 3734.02 of the Revised Code and division (D) of section
3734.12 of the Revised Code, or standards pertaining to subjects
not specifically addressed by those rules, are necessary to ensure
that a solid waste facility constructed at the proposed location

will not cause a nuisance, cause or contribute to water pollution, 34383
or endanger public health or safety, the director may issue a 34384
permit for the facility with such terms and conditions as the 34385
director finds necessary to protect public health and safety and 34386
the environment. If a permit is issued, the director shall state 34387
in the order issuing it the specific findings supporting each such 34388
term or condition. 34389

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do 34390
not apply to a solid waste compost facility that accepts 34391
exclusively source separated yard wastes and that is registered 34392
under division (C) of section 3734.02 of the Revised Code or, 34393
unless otherwise provided in rules adopted under division (N)(3) 34394
of section 3734.02 of the Revised Code, to a solid waste compost 34395
facility if the director has adopted rules establishing an 34396
alternative system for authorizing the establishment, operation, 34397
or modification of a solid waste compost facility under that 34398
division. 34399

(9) Divisions (A)(1) to (7) of this section do not apply to 34400
scrap tire collection, storage, monocell, monofill, and recovery 34401
facilities. The approval of plans and specifications, as 34402
applicable, and the issuance of registration certificates, 34403
permits, and licenses for those facilities are subject to sections 34404
3734.75 to 3734.78 of the Revised Code, as applicable, and section 34405
3734.81 of the Revised Code. 34406

(10) Divisions (A)(3) and (4) of this section do not apply to 34407
a solid waste incinerator that was placed into operation on or 34408
before October 12, 1994, and that is not authorized to accept and 34409
treat infectious wastes pursuant to division (B) of this section. 34410

(B)(1) Each person who is engaged in the business of treating 34411
infectious wastes for profit at a treatment facility located off 34412
the premises where the wastes are generated that is in operation 34413

on August 10, 1988, and who proposes to continue operating the 34414
facility shall submit to the board of health of the health 34415
district in which the facility is located an application for a 34416
license to operate the facility. 34417

Thereafter, no person shall operate or maintain an infectious 34418
waste treatment facility without a license issued by the board of 34419
health of the health district in which the facility is located or 34420
by the director when the health district in which the facility is 34421
located is not on the approved list under section 3734.08 of the 34422
Revised Code. 34423

(2)(a) During the month of December, but before the first day 34424
of January of the next year, every person proposing to continue to 34425
operate an existing infectious waste treatment facility shall 34426
procure a license to operate the facility for that year from the 34427
board of health of the health district in which the facility is 34428
located or, if the health district is not on the approved list 34429
under section 3734.08 of the Revised Code, from the director. The 34430
application for such a license shall be submitted to the board of 34431
health or to the director, as appropriate, on or before the last 34432
day of September of the year preceding that for which the license 34433
is sought. In addition to the application fee prescribed in 34434
division (B)(2)(c) of this section, a person who submits an 34435
application after that date shall pay an additional ten per cent 34436
of the amount of the application fee for each week that the 34437
application is late. Late payment fees accompanying an application 34438
submitted to the board of health shall be credited to the special 34439
infectious waste fund of the health district created in division 34440
(C) of section 3734.06 of the Revised Code, and late payment fees 34441
accompanying an application submitted to the director shall be 34442
credited to the general revenue fund. A person who has received a 34443
license, upon sale or disposition of an infectious waste treatment 34444
facility and upon consent of the board of health and the director, 34445

may have the license transferred to another person. The board of
health or the director may include such terms and conditions in a
license or revision to a license as are appropriate to ensure
compliance with the infectious waste provisions of this chapter
and rules adopted under them.

(b) Each person proposing to open a new infectious waste
treatment facility or to modify an existing infectious waste
treatment facility shall submit an application for a permit with
accompanying detail plans and specifications to the environmental
protection agency for required approval under the rules adopted by
the director pursuant to section 3734.021 of the Revised Code two
hundred seventy days before proposed operation of the facility and
concurrently shall make application for a license with the board
of health of the health district in which the facility is or is
proposed to be located. Not later than ninety days after receiving
a completed application under division (B)(2)(b) of this section
for a permit to open a new infectious waste treatment facility or
modify an existing infectious waste treatment facility to expand
its treatment capacity, or receiving a completed application under
division (A)(2)(a) of this section for a permit to open a new
solid waste incineration facility, or modify an existing solid
waste incineration facility to also treat infectious wastes or to
increase its infectious waste treatment capacity, that pertains to
a facility for which a notation authorizing infectious waste
treatment is included or proposed to be included in the solid
waste incineration facility's license pursuant to division (B)(3)
of this section, the director shall hold a public hearing on the
application within the county in which the new or modified
infectious waste or solid waste facility is or is proposed to be
located or within a contiguous county. Not less than thirty days
before holding the public hearing on the application, the director
shall publish notice of the hearing in each newspaper that has

general circulation and that is published in the county in which 34478
the facility is or is proposed to be located. If there is no 34479
newspaper that has general circulation and that is published in 34480
the county, the director shall publish the notice in a newspaper 34481
of general circulation in the county. The notice shall contain the 34482
date, time, and location of the public hearing and a general 34483
description of the proposed new or modified facility. At the 34484
public hearing, any person may submit written or oral comments on 34485
or objections to the approval or disapproval of the application. 34486
The applicant, or a representative of the applicant who has 34487
knowledge of the location, construction, and operation of the 34488
facility, shall attend the public hearing to respond to comments 34489
or questions concerning the facility directed to the applicant or 34490
representative by the officer or employee of the environmental 34491
protection agency presiding at the hearing. 34492

(c) Each application for a permit under division (B)(2)(b) of 34493
this section shall be accompanied by a nonrefundable application 34494
fee of four hundred dollars that shall be credited to the general 34495
revenue fund. Each application for an annual license under 34496
division (B)(2)(a) of this section shall be accompanied by a 34497
nonrefundable application fee of one hundred dollars. If the 34498
application for an annual license is submitted to a board of 34499
health on the approved list under section 3734.08 of the Revised 34500
Code, the application fee shall be credited to the special 34501
infectious waste fund of the health district created in division 34502
(C) of section 3734.06 of the Revised Code. If the application for 34503
an annual license is submitted to the director, the application 34504
fee shall be credited to the general revenue fund. If a permit or 34505
license is issued, the amount of the application fee paid shall be 34506
deducted from the amount of the permit fee due under division (Q) 34507
of section 3745.11 of the Revised Code or the amount of the 34508
license fee due under division (C) of section 3734.06 of the 34509

Revised Code.	34510
(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:	34511 34512 34513 34514 34515 34516 34517
(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;	34518 34519 34520
(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;	34521 34522 34523 34524
(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;	34525 34526 34527 34528
(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;	34529 34530 34531
(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.	34532 34533 34534
The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised	34535 34536 34537 34538 34539

Code, with respect thereto unless the owner or operator also 34540
proposes to modify the facility. 34541

(e) The director may issue an order in accordance with 34542
Chapter 3745. of the Revised Code to the owner or operator of an 34543
infectious waste treatment facility requiring the person to submit 34544
to the director updated engineering detail plans, specifications, 34545
and information regarding the facility and its method of operation 34546
for approval under rules adopted under section 3734.021 of the 34547
Revised Code if, in the director's judgment, conditions at the 34548
facility constitute a substantial threat to public health or 34549
safety or are causing or contributing to or threatening to cause 34550
or contribute to air or water pollution or soil contamination. Any 34551
person who receives such an order shall submit the updated 34552
engineering detail plans, specifications, and information to the 34553
director within one hundred eighty days after the effective date 34554
of the order. 34555

(f) The director shall act upon an application submitted 34556
under division (B)(2)(d) of this section and any updated 34557
engineering plans, specifications, and information submitted under 34558
division (B)(2)(e) of this section within one hundred eighty days 34559
after receiving them. If the director denies any such permit 34560
application or disapproves any such updated engineering plans, 34561
specifications, and information, the director shall include in the 34562
order denying the application or disapproving the plans the 34563
requirement that the owner or operator cease accepting infectious 34564
wastes for treatment at the facility. 34565

(3) Division (B) of this section does not apply to an 34566
infectious waste treatment facility that meets any of the 34567
following conditions: 34568

(a) Is owned or operated by the generator of the wastes and 34569
exclusively treats, by methods, techniques, and practices 34570

established by rules adopted under division (C)(1) or (3) of 34571
section 3734.021 of the Revised Code, wastes that are generated at 34572
any premises owned or operated by that generator regardless of 34573
whether the wastes are generated on the same premises where the 34574
generator's treatment facility is located or, if the generator is 34575
a hospital as defined in section 3727.01 of the Revised Code, 34576
infectious wastes that are described in division (A)~~(1)(g)~~, 34577
~~(h)~~, (2) or ~~(i)~~(3) of section 3734.021 of the Revised Code; 34578

(b) Holds a license or renewal of a license to operate a 34579
crematory facility issued under Chapter 4717. and a permit issued 34580
under Chapter 3704. of the Revised Code; 34581

(c) Treats or disposes of dead animals or parts thereof, or 34582
the blood of animals, and is subject to any of the following: 34583

(i) Inspection under the "Federal Meat Inspection Act," 81 34584
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 34585

(ii) Chapter 918. of the Revised Code; 34586

(iii) Chapter 953. of the Revised Code. 34587

Nothing in division (B) of this section requires a facility 34588
that holds a license issued under division (A) of this section as 34589
a solid waste facility and that also treats infectious wastes by 34590
the same method, technique, or process to obtain a license under 34591
division (B) of this section as an infectious waste treatment 34592
facility. However, the solid waste facility license for the 34593
facility shall include the notation that the facility also treats 34594
infectious wastes. 34595

On and after the effective date of the amendments to the 34596
rules adopted under division (C)(2) of section 3734.021 of the 34597
Revised Code that are required by Section 6 of Substitute House 34598
Bill No. 98 of the 120th General Assembly, the director shall not 34599
issue a permit to open a new solid waste incineration facility 34600

unless the proposed facility complies with the requirements for 34601
the location of new infectious waste incineration facilities 34602
established in the required amendments to those rules. 34603

(C) Except for a facility or activity described in division 34604
(E)(3) of section 3734.02 of the Revised Code, a person who 34605
proposes to establish or operate a hazardous waste facility shall 34606
submit a complete application for a hazardous waste facility 34607
installation and operation permit and accompanying detail plans, 34608
specifications, and such information as the director may require 34609
to the environmental protection agency at least one hundred eighty 34610
days before the proposed beginning of operation of the facility. 34611
The applicant shall notify by certified mail the legislative 34612
authority of each municipal corporation, township, and county in 34613
which the facility is proposed to be located of the submission of 34614
the application within ten days after the submission or at such 34615
earlier time as the director may establish by rule. If the 34616
application is for a proposed new hazardous waste disposal or 34617
thermal treatment facility, the applicant also shall give actual 34618
notice of the general design and purpose of the facility to the 34619
legislative authority of each municipal corporation, township, and 34620
county in which the facility is proposed to be located at least 34621
ninety days before the permit application is submitted to the 34622
environmental protection agency. 34623

In accordance with rules adopted under section 3734.12 of the 34624
Revised Code, prior to the submission of a complete application 34625
for a hazardous waste facility installation and operation permit, 34626
the applicant shall hold at least one meeting in the township or 34627
municipal corporation in which the facility is proposed to be 34628
located, whichever is geographically closer to the proposed 34629
location of the facility. The meeting shall be open to the public 34630
and shall be held to inform the community of the proposed 34631
hazardous waste management activities and to solicit questions 34632

from the community concerning the activities. 34633

(D)(1) Except as provided in section 3734.123 of the Revised 34634
Code, upon receipt of a complete application for a hazardous waste 34635
facility installation and operation permit under division (C) of 34636
this section, the director shall consider the application and 34637
accompanying information to determine whether the application 34638
complies with agency rules and the requirements of division (D)(2) 34639
of this section. After making a determination, the director shall 34640
issue either a draft permit or a notice of intent to deny the 34641
permit. The director, in accordance with rules adopted under 34642
section 3734.12 of the Revised Code or with rules adopted to 34643
implement Chapter 3745. of the Revised Code, shall provide public 34644
notice of the application and the draft permit or the notice of 34645
intent to deny the permit, provide an opportunity for public 34646
comments, and, if significant interest is shown, schedule a public 34647
meeting in the county in which the facility is proposed to be 34648
located and give public notice of the date, time, and location of 34649
the public meeting in a newspaper of general circulation in that 34650
county. 34651

(2) The director shall not approve an application for a 34652
hazardous waste facility installation and operation permit or an 34653
application for a modification under division (I)(3) of this 34654
section unless the director finds and determines as follows: 34655

(a) The nature and volume of the waste to be treated, stored, 34656
or disposed of at the facility; 34657

(b) That the facility complies with the director's hazardous 34658
waste standards adopted pursuant to section 3734.12 of the Revised 34659
Code; 34660

(c) That the facility represents the minimum adverse 34661
environmental impact, considering the state of available 34662
technology and the nature and economics of various alternatives, 34663

and other pertinent considerations; 34664

(d) That the facility represents the minimum risk of all of 34665
the following: 34666

(i) Fires or explosions from treatment, storage, or disposal 34667
methods; 34668

(ii) Release of hazardous waste during transportation of 34669
hazardous waste to or from the facility; 34670

(iii) Adverse impact on the public health and safety. 34671

(e) That the facility will comply with this chapter and 34672
Chapters 3704. and 6111. of the Revised Code and all rules and 34673
standards adopted under them; 34674

(f) That if the owner of the facility, the operator of the 34675
facility, or any other person in a position with the facility from 34676
which the person may influence the installation and operation of 34677
the facility has been involved in any prior activity involving 34678
transportation, treatment, storage, or disposal of hazardous 34679
waste, that person has a history of compliance with this chapter 34680
and Chapters 3704. and 6111. of the Revised Code and all rules and 34681
standards adopted under them, the "Resource Conservation and 34682
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 34683
amended, and all regulations adopted under it, and similar laws 34684
and rules of other states if any such prior operation was located 34685
in another state that demonstrates sufficient reliability, 34686
expertise, and competency to operate a hazardous waste facility 34687
under the applicable provisions of this chapter and Chapters 3704. 34688
and 6111. of the Revised Code, the applicable rules and standards 34689
adopted under them, and terms and conditions of a hazardous waste 34690
facility installation and operation permit, given the potential 34691
for harm to the public health and safety and the environment that 34692
could result from the irresponsible operation of the facility. For 34693
off-site facilities, as defined in section 3734.41 of the Revised 34694

Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

(ii) Any naturally occurring wetland;

(iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established

under section 1541.02 of the Revised Code, any unit of the
national park system, or any property that lies within the
boundaries of a national park or recreation area, but that has not
been acquired or is not administered by the secretary of the
United States department of the interior, located in this state,
or any candidate area located in this state identified for
potential inclusion in the national park system in the edition of
the "national park system plan" submitted under paragraph (b) of
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16
U.S.C.A. 1a-5, as amended, current at the time of filing of the
application for the permit, unless the facility will be used
exclusively for the storage of hazardous waste generated within
the park or recreation area in conjunction with the operation of
the park or recreation area. Division (D)(2)(h) of this section
does not apply to the facility of any applicant for modification
of a permit unless the modification application proposes to
increase the land area included in the facility or to increase the
quantity of hazardous waste that will be treated, stored, or
disposed of at the facility.

(3) Not later than one hundred eighty days after the end of
the public comment period, the director, without prior hearing,
shall issue or deny the permit in accordance with Chapter 3745. of
the Revised Code. If the director approves an application for a
hazardous waste facility installation and operation permit, the
director shall issue the permit, upon such terms and conditions as
the director finds are necessary to ensure the construction and
operation of the hazardous waste facility in accordance with the
standards of this section.

(E)÷ No political subdivision of this state shall require any
additional zoning or other approval, consent, permit, certificate,
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, 34758
nor shall any political subdivision adopt or enforce any law, 34759
ordinance, or rule that in any way alters, impairs, or limits the 34760
authority granted in the permit. 34761

(F) The director may issue a single hazardous waste facility 34762
installation and operation permit to a person who operates two or 34763
more adjoining facilities where hazardous waste is stored, 34764
treated, or disposed of if the application includes detail plans, 34765
specifications, and information on all facilities. For the 34766
purposes of this section, "adjoining" means sharing a common 34767
boundary, separated only by a public road, or in such proximity 34768
that the director determines that the issuance of a single permit 34769
will not create a hazard to the public health or safety or the 34770
environment. 34771

(G) No person shall falsify or fail to keep or submit any 34772
plans, specifications, data, reports, records, manifests, or other 34773
information required to be kept or submitted to the director by 34774
this chapter or the rules adopted under it. 34775

(H)(1) Each person who holds an installation and operation 34776
permit issued under this section and who wishes to obtain a permit 34777
renewal shall submit a completed application for an installation 34778
and operation permit renewal and any necessary accompanying 34779
general plans, detail plans, specifications, and such information 34780
as the director may require to the director no later than one 34781
hundred eighty days prior to the expiration date of the existing 34782
permit or upon a later date prior to the expiration of the 34783
existing permit if the permittee can demonstrate good cause for 34784
the late submittal. The director shall consider the application 34785
and accompanying information, inspection reports of the facility, 34786
results of performance tests, a report regarding the facility's 34787
compliance or noncompliance with the terms and conditions of its 34788
permit and rules adopted by the director under this chapter, and 34789

such other information as is relevant to the operation of the
facility and shall issue a draft renewal permit or a notice of
intent to deny the renewal permit. The director, in accordance
with rules adopted under this section or with rules adopted to
implement Chapter 3745. of the Revised Code, shall give public
notice of the application and draft renewal permit or notice of
intent to deny the renewal permit, provide for the opportunity for
public comments within a specified time period, schedule a public
meeting in the county in which the facility is located if
significant interest is shown, and give public notice of the
public meeting.

(2) Within sixty days after the public meeting or close of
the public comment period, the director, without prior hearing,
shall issue or deny the renewal permit in accordance with Chapter
3745. of the Revised Code. The director shall not issue a renewal
permit unless the director determines that the facility under the
existing permit has a history of compliance with this chapter,
rules adopted under it, the existing permit, or orders entered to
enforce such requirements that demonstrates sufficient
reliability, expertise, and competency to operate the facility
henceforth under this chapter, rules adopted under it, and the
renewal permit. If the director approves an application for a
renewal permit, the director shall issue the permit subject to the
payment of the annual permit fee required under division (E) of
section 3734.02 of the Revised Code and upon such terms and
conditions as the director finds are reasonable to ensure that
continued operation, maintenance, closure, and post-closure care
of the hazardous waste facility are in accordance with the rules
adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application
submitted to the director that also contains or would constitute
an application for a modification shall be acted upon by the

director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, any modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator shall be classified as a Class 3 modification.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity

authorized by the facility's permit, an increase in a facility's 34884
treatment rate of more than twenty-five per cent over the rate so 34885
authorized, or an increase in a facility's disposal capacity over 34886
the capacity so authorized. The authorized disposal capacity for a 34887
facility shall be calculated from the approved design plans for 34888
the disposal units at that facility. In no case during a five-year 34889
period shall a facility's storage capacity or treatment rate be 34890
modified to increase by more than twenty-five per cent in the 34891
aggregate without the director's approval in accordance with 34892
division (D)(2) of this section. Notwithstanding any provision of 34893
division (I) of this section to the contrary, a request for 34894
modification of a facility's annual total waste receipt limit 34895
shall be classified and approved or disapproved by the director 34896
under division (I)(5) of this section. 34897

(c) Authority to add any of the following categories of 34898
regulated activities not previously authorized at a facility by 34899
the facility's permit: storage at a facility not previously 34900
authorized to store hazardous waste, treatment at a facility not 34901
previously authorized to treat hazardous waste, or disposal at a 34902
facility not previously authorized to dispose of hazardous waste; 34903
or authority to add a category of hazardous waste management unit 34904
not previously authorized at the facility by the facility's 34905
permit. Notwithstanding any provision of division (I) of this 34906
section to the contrary, a request for authority to add or to 34907
modify an activity or a hazardous waste management unit for the 34908
purposes of performing a corrective action shall be classified and 34909
approved or disapproved by the director under division (I)(5) of 34910
this section. 34911

(d) Authority to treat, store, or dispose of waste types 34912
listed or characterized as reactive or explosive, in rules adopted 34913
under section 3734.12 of the Revised Code, or any acute hazardous 34914
waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not 34915

previously authorized to treat, store, or dispose of those types
of wastes by the facility's permit unless the requested authority
is limited to wastes that no longer exhibit characteristics
meeting the criteria for listing or characterization as reactive
or explosive wastes, or for listing as acute hazardous waste, but
still are required to carry those waste codes as established in
rules adopted under section 3734.12 of the Revised Code because of
the requirements established in 40 C.F.R. 261(a) and (e), as
amended, that is, the "mixture," "derived-from," or "contained-in"
regulations.

(4) A written request for a modification from the permittee
shall be submitted to the director and shall contain such
information as is necessary to support the request. Requests for
modifications shall be acted upon by the director in accordance
with this section and rules adopted under it.

(5) Class 1 modification applications that require prior
approval of the director, as determined in accordance with rules
adopted under division (K) of this section, Class 2 modification
applications, and Class 3 modification applications that are not
described in divisions (I)(3)(a) to (d) of this section shall be
approved or disapproved by the director in accordance with rules
adopted under division (K) of this section. The board of county
commissioners of the county, the board of township trustees of the
township, and the city manager or mayor of the municipal
corporation in which a hazardous waste facility is located shall
receive notification of any application for a modification for
that facility and shall be considered as interested persons with
respect to the director's consideration of the application.

For those modification applications for a transfer of a
permit to a new owner or operator of a facility, the director also
shall determine that, if the transferee owner or operator has been
involved in any prior activity involving the transportation,

treatment, storage, or disposal of hazardous waste, the transferee
owner or operator has a history of compliance with this chapter
and Chapters 3704. and 6111. of the Revised Code and all rules and
standards adopted under them, the "Resource Conservation and
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as
amended, and all regulations adopted under it, and similar laws
and rules of another state if the transferee owner or operator
owns or operates a facility in that state, that demonstrates
sufficient reliability, expertise, and competency to operate a
hazardous waste facility under this chapter and Chapters 3704. and
6111. of the Revised Code, all rules and standards adopted under
them, and terms and conditions of a hazardous waste facility
installation and operation permit, given the potential for harm to
the public health and safety and the environment that could result
from the irresponsible operation of the facility. A permit may be
transferred to a new owner or operator only pursuant to a Class 3
permit modification.

As used in division (I)(5) of this section:

(a) "Owner" means the person who owns a majority or
controlling interest in a facility.

(b) "Operator" means the person who is responsible for the
overall operation of a facility.

The director shall approve or disapprove an application for a
Class 1 modification that requires the director's approval within
sixty days after receiving the request for modification. The
director shall approve or disapprove an application for a Class 2
modification within three hundred days after receiving the request
for modification. The director shall approve or disapprove an
application for a Class 3 modification within three hundred
sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1

modification application is not a final action that is appealable 34979
under Chapter 3745. of the Revised Code. The approval or 34980
disapproval by the director of a Class 2 modification or a Class 3 34981
modification is a final action that is appealable under that 34982
chapter. In approving or disapproving a request for a 34983
modification, the director shall consider all comments pertaining 34984
to the request that are received during the public comment period 34985
and the public meetings. The administrative record for appeal of a 34986
final action by the director in approving or disapproving a 34987
request for a modification shall include all comments received 34988
during the public comment period relating to the request for 34989
modification, written materials submitted at the public meetings 34990
relating to the request, and any other documents related to the 34991
director's action. 34992

(7) Notwithstanding any other provision of law to the 34993
contrary, a change or alteration to a hazardous waste facility 34994
described in division (E)(3)(a) or (b) of section 3734.02 of the 34995
Revised Code, or its operations, is a modification for the 34996
purposes of this section. An application for a modification at 34997
such a facility shall be submitted, classified, and approved or 34998
disapproved in accordance with divisions (I)(1) to (6) of this 34999
section in the same manner as a modification to a hazardous waste 35000
facility installation and operation permit. 35001

(J)(1) Except as provided in division (J)(2) of this section, 35002
an owner or operator of a hazardous waste facility that is 35003
operating in accordance with a permit by rule under rules adopted 35004
by the director under division (E)(3)(b) of section 3734.02 of the 35005
Revised Code shall submit either a hazardous waste facility 35006
installation and operation permit application for the facility or 35007
a modification application, whichever is required under division 35008
(J)(1)(a) or (b) of this section, within one hundred eighty days 35009
after the director has requested the application or upon a later 35010

date if the owner or operator demonstrates to the director good 35011
cause for the late submittal. 35012

(a) If the owner or operator does not have a hazardous waste 35013
facility installation and operation permit for any hazardous waste 35014
treatment, storage, or disposal activities at the facility, the 35015
owner or operator shall submit an application for such a permit to 35016
the director for the activities authorized by the permit by rule. 35017
Notwithstanding any other provision of law to the contrary, the 35018
director shall approve or disapprove the application for the 35019
permit in accordance with the procedures governing the approval or 35020
disapproval of permit renewals under division (H) of this section. 35021

(b) If the owner or operator has a hazardous waste facility 35022
installation and operation permit for hazardous waste treatment, 35023
storage, or disposal activities at the facility other than those 35024
authorized by the permit by rule, the owner or operator shall 35025
submit to the director a request for modification in accordance 35026
with division (I) of this section. Notwithstanding any other 35027
provision of law to the contrary, the director shall approve or 35028
disapprove the modification application in accordance with 35029
division (I)(5) of this section. 35030

(2) The owner or operator of a boiler or industrial furnace 35031
that is conducting thermal treatment activities in accordance with 35032
a permit by rule under rules adopted by the director under 35033
division (E)(3)(b) of section 3734.02 of the Revised Code shall 35034
submit a hazardous waste facility installation and operation 35035
permit application if the owner or operator does not have such a 35036
permit for any hazardous waste treatment, storage, or disposal 35037
activities at the facility or, if the owner or operator has such a 35038
permit for hazardous waste treatment, storage, or disposal 35039
activities at the facility other than thermal treatment activities 35040
authorized by the permit by rule, a modification application to 35041
add those activities authorized by the permit by rule, whichever 35042

is applicable, within one hundred eighty days after the director
has requested the submission of the application or upon a later
date if the owner or operator demonstrates to the director good
cause for the late submittal. The application shall be accompanied
by information necessary to support the request. The director
shall approve or disapprove an application for a hazardous waste
facility installation and operation permit in accordance with
division (D) of this section and approve or disapprove an
application for a modification in accordance with division (I)(3)
of this section, except that the director shall not disapprove an
application for the thermal treatment activities on the basis of
the criteria set forth in division (D)(2)(g) or (h) of this
section.

(3) As used in division (J) of this section: 35056

(a) "Modification application" means a request for a
modification submitted in accordance with division (I) of this
section.

(b) "Thermal treatment," "boiler," and "industrial furnace"
have the same meanings as in rules adopted under section 3734.12
of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or
rescind, rules in accordance with Chapter 119. of the Revised Code
in order to implement divisions (H) and (I) of this section.
Except when in actual conflict with this section, rules governing
the classification of and procedures for the modification of
hazardous waste facility installation and operation permits shall
be substantively and procedurally identical to the regulations
governing hazardous waste facility permitting and permit
modifications adopted under the "Resource Conservation and
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as
amended.

Sec. 3734.28. All moneys collected under sections 3734.122, 35074
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 35075
Code and natural resource damages collected by the state under the 35076
"Comprehensive Environmental Response, Compensation, and Liability 35077
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 35078
be paid into the state treasury to the credit of the hazardous 35079
waste clean-up fund, which is hereby created. In addition, any 35080
moneys recovered for costs paid from the fund for activities 35081
described in division (A)(1) and (2) of section 3745.12 of the 35082
Revised Code shall be credited to the fund. The environmental 35083
protection agency shall use the moneys in the fund for the 35084
purposes set forth in division (D) of section 3734.122, sections 35085
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 35086
and, through October 15, 2005, divisions (A)(1) and (2) of section 35087
3745.12 and Chapter 3746. of the Revised Code, including any 35088
related enforcement expenses. In addition, the agency shall use 35089
the moneys in the fund to pay the state's long-term operation and 35090
maintenance costs or matching share for actions taken under the 35091
"Comprehensive Environmental Response, Compensation, and Liability 35092
Act of 1980," as amended. If those moneys are reimbursed by grants 35093
or other moneys from the United States or any other person, the 35094
moneys shall be placed in the fund and not in the general revenue 35095
fund. 35096

Sec. 3734.57. (A) ~~For the purposes of paying the state's~~ 35097
~~long-term operation costs or matching share for actions taken~~ 35098
~~under the "Comprehensive Environmental Response, Compensation, and~~ 35099
~~Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as~~ 35100
~~amended; paying the costs of measures for proper clean-up of sites~~ 35101
~~where polychlorinated biphenyls and substances, equipment, and~~ 35102
~~devices containing or contaminated with polychlorinated biphenyls~~ 35103
~~have been stored or disposed of; paying the costs of conducting~~ 35104

~~surveys or investigations of solid waste facilities or other 35105
locations where it is believed that significant quantities of 35106
hazardous waste were disposed of and for conducting enforcement 35107
actions arising from the findings of such surveys or 35108
investigations; paying the costs of acquiring and cleaning up, or 35109
providing financial assistance for cleaning up, any hazardous 35110
waste facility or solid waste facility containing significant 35111
quantities of hazardous waste, that constitutes an imminent and 35112
substantial threat to public health or safety or the environment; 35113
and, from July 1, 2003, through June 30, 2006, for the purposes of 35114
paying the costs of administering and enforcing the laws 35115
pertaining to solid wastes, infectious wastes, and construction 35116
and demolition debris, including, without limitation, ground water 35117
evaluations related to solid wastes, infectious wastes, and 35118
construction and demolition debris, under this chapter and Chapter 35119
3714. of the Revised Code and any rules adopted under them, and 35120
paying a share of the administrative costs of the environmental 35121
protection agency pursuant to section 3745.014 of the Revised 35122
Code, the The following fees are hereby levied on the disposal of 35123
solid wastes in this state: 35124~~

~~(1) One dollar per ton ~~on and after July 1, 1993, one-half of~~ 35125
the proceeds of which shall be deposited in the state treasury to 35126
the credit of the hazardous waste facility management fund created 35127
in section 3734.18 of the Revised Code and one-half of the 35128
proceeds of which shall be deposited in the state treasury to the 35129
credit of the hazardous waste clean-up fund created in section 35130
3734.28 of the Revised Code; 35131~~

~~(2) An additional one dollar per ton on and after July 1, 35132
2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be 35133
deposited in the state treasury to the credit of the solid waste 35134
fund, which is hereby created. The environmental protection agency 35135
shall use money in the solid waste fund to pay the costs of 35136~~

administering and enforcing the laws pertaining to solid wastes, 35137
infectious wastes, and construction and demolition debris, 35138
including, without limitation, ground water evaluations related to 35139
solid wastes, infectious wastes, and construction and demolition 35140
debris, under this chapter and Chapter 3714. of the Revised Code 35141
and any rules adopted under them, providing compliance assistance 35142
to small businesses, and paying a share of the administrative 35143
costs of the environmental protection agency pursuant to section 35144
3745.014 of the Revised Code. 35145

(3) An additional one dollar and fifty cents per ton on and 35146
after July 1, 2005, the proceeds of which shall be deposited in 35147
the state treasury to the credit of the environmental protection 35148
fund created in section 3745.015 of the Revised Code. 35149

In the case of solid wastes that are taken to a solid waste 35150
transfer facility prior to being transported to a solid waste 35151
disposal facility for disposal, the fees levied under this 35152
division shall be collected by the owner or operator of the 35153
transfer facility as a trustee for the state. In the case of solid 35154
wastes that are not taken to a solid waste transfer facility prior 35155
to being transported to a solid waste disposal facility, the fees 35156
shall be collected by the owner or operator of the solid waste 35157
disposal facility as a trustee for the state. Fees levied under 35158
this division do not apply to materials separated from a mixed 35159
waste stream for recycling by a generator or materials removed 35160
from the solid waste stream through recycling, as "recycling" is 35161
defined in rules adopted under section 3734.02 of the Revised 35162
Code. 35163

The owner or operator of a solid waste transfer facility or 35164
disposal facility shall collect the fees levied under this 35165
division as a trustee for the state and, as applicable, shall 35166
prepare and file with the director of environmental protection 35167
monthly returns each month a return indicating the total tonnage 35168

of solid wastes received ~~for disposal at the gate of~~ the facility 35169
during that month and the total amount of the fees required to be 35170
collected under this division during that month. The amount of 35171
fees required to be collected under this division shall equal the 35172
total tonnage of solid wastes received at the facility multiplied 35173
by the fees levied under this division. The monthly returns shall 35174
be filed on a form prescribed by the director. Not later than 35175
thirty days after the last day of the month to which ~~such~~ a return 35176
applies, the owner or operator shall mail to the director the 35177
return for that month together with the fees required to be 35178
collected under this division during that month as indicated on 35179
the return. ~~The~~ If the return is filed and the amount of the fees 35180
due is paid in a timely manner as required in this division, the 35181
owner or operator may retain a discount of three-fourths of one 35182
per cent of the total amount of the fees that are required to be 35183
paid as indicated on the return. 35184

The owner or operator may request an extension of not more 35185
than thirty days for filing the return and remitting the fees, 35186
provided that the owner or operator has submitted such a request 35187
in writing to the director together with a detailed description of 35188
why the extension is requested, the director has received the 35189
request not later than the day on which the return is required to 35190
be filed, and the director has approved the request. If the fees 35191
are not remitted within thirty days after the last day of the 35192
month ~~during which they were collected~~ to which the return applies 35193
or are not remitted by the last day of an extension approved by 35194
the director, the owner or operator shall not retain the 35195
three-fourths of one per cent discount and shall pay an additional 35196
~~fifty~~ ten per cent of the amount of the fees for each month that 35197
they are late. For purposes of calculating the late fee, the first 35198
month in which fees are late begins on the first day after the 35199
deadline has passed for timely submitting the return and fees, and 35200
one additional month shall be counted every thirty days 35201

thereafter. 35202

~~One half of the moneys remitted to the director under 35203
division (A)(1) of this section shall be credited to the hazardous 35204
waste facility management fund created in section 3734.18 of the 35205
Revised Code, and one half shall be credited to the hazardous 35206
waste clean up fund created in section 3734.28 of the Revised 35207
Code. The moneys remitted to the director under division (A)(2) of 35208
this section shall be credited to the solid waste fund, which is 35209
hereby created in the state treasury. The environmental protection 35210
agency shall use moneys in the solid waste fund only to pay the 35211
costs of administering and enforcing the laws pertaining to solid 35212
wastes, infectious wastes, and construction and demolition debris, 35213
including, without limitation, ground water evaluations related to 35214
solid wastes, infectious wastes, and construction and demolition 35215
debris, under this chapter and Chapter 3714. of the Revised Code 35216
and rules adopted under them and to pay a share of the 35217
administrative costs of the environmental protection agency 35218
pursuant to section 3745.014 of the Revised Code. 35219~~

For purposes of computing the fees levied under this division 35220
or division (B) of this section, any solid waste transfer or 35221
disposal facility that does not use scales as a means of 35222
determining gate receipts shall use a conversion factor of three 35223
cubic yards per ton of solid waste or one cubic yard per ton for 35224
baled waste, as applicable. 35225

The fees levied under this division and divisions (B) and (C) 35226
of this section are in addition to all other applicable fees and 35227
taxes and shall be added to any other fee or amount specified in a 35228
contract that is charged by the owner or operator of a solid waste 35229
transfer or disposal facility or to any other fee or amount that 35230
is specified in a contract entered into on or after March 4, 1992, 35231
and that is charged by a transporter of solid wastes. 35232

(B) For the ~~purpose of preparing, revising, and implementing~~ 35233

~~the solid waste management plan of the county or joint solid waste management district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal~~

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~~corporations and townships within the district to defray their~~ 35267
~~added costs of maintaining roads and other public facilities and~~ 35268
~~of providing emergency and other public services resulting from~~ 35269
~~the location and operation within their boundaries of a~~ 35270
~~composting, energy or resource recovery, incineration, or~~ 35271
~~recycling facility that either is owned by the district or is~~ 35272
~~furnishing solid waste management facility or recycling services~~ 35273
~~to the district pursuant to a contract or agreement with the board~~ 35274
~~of county commissioners or directors of the district; and payment~~ 35275
~~of any expenses that are agreed to, awarded, or ordered to be paid~~ 35276
~~under section 3734.35 of the Revised Code and of any~~ 35277
~~administrative costs incurred pursuant to that section purposes~~ 35278
~~specified in division (G) of this section, the solid waste~~ 35279
~~management policy committee of a county or joint solid waste~~ 35280
~~management district may levy fees upon the following activities:~~ 35281

(1) The disposal at a solid waste disposal facility located 35282
in the district of solid wastes generated within the district; 35283

(2) The disposal at a solid waste disposal facility within 35284
the district of solid wastes generated outside the boundaries of 35285
the district, but inside this state; 35286

(3) The disposal at a solid waste disposal facility within 35287
the district of solid wastes generated outside the boundaries of 35288
this state. 35289

~~If any such fees are levied prior to January 1, 1994, fees~~ 35290
~~Fees levied under division (B)(1) of this section always shall be~~ 35291
~~equal to one-half of the fees levied under division (B)(2) of this~~ 35292
~~section, and fees levied under division (B)(3) of this section,~~ 35293
~~which shall be in addition to fees levied under division (B)(2) of~~ 35294
~~this section, always shall be equal to fees levied under division~~ 35295
~~(B)(1) of this section, except as otherwise provided in this~~ 35296
~~division. The solid waste management plan of the county or joint~~ 35297
~~district approved under section 3734.521 or 3734.55 of the Revised~~ 35298

Code and any amendments to it, or the resolution adopted under 35299
this division, as appropriate, shall establish the rates of the 35300
fees levied under divisions (B)(1), (2), and (3) of this section, 35301
if any, and shall specify whether the fees are levied on the basis 35302
of tons or cubic yards as the unit of measurement. ~~Although the~~ 35303
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 35304
~~the basis of tons as the unit of measurement, the~~ A solid waste 35305
management plan of the district and any amendments to it or the 35306
solid waste management policy committee in its resolution levying 35307
fees under this division may direct that the levies fees levied 35308
under ~~those divisions be levied~~ this division on the basis of 35309
cubic yards as the unit of measurement based upon a conversion 35310
factor of three cubic yards per ton generally or one cubic yard 35311
per ton for baled wastes if the fees under divisions (B)(1) to (3) 35312
of this section are being levied on the basis of cubic yards as 35313
the unit of measurement under the plan, amended plan, or 35314
resolution shall do so in accordance with division (A) of this 35315
section. 35316

~~On and after January 1, 1994, the~~ The fee levied under 35317
division (B)(1) of this section shall be not less than one dollar 35318
per ton nor more than two dollars per ton, the fee levied under 35319
division (B)(2) of this section shall be not less than two dollars 35320
per ton nor more than four dollars per ton, and the fee levied 35321
under division (B)(3) of this section shall be not more than the 35322
fee levied under division (B)(1) of this section, ~~except as~~ 35323
~~otherwise provided in this division and notwithstanding any~~ 35324
~~schedule of those fees established in the solid waste management~~ 35325
~~plan of a county or joint district approved under section 3734.55~~ 35326
~~of the Revised Code or a resolution adopted and ratified under~~ 35327
~~this division that is in effect on that date. If the fee that a~~ 35328
~~district is levying under division (B)(1) of this section on that~~ 35329
~~date under its approved plan or such a resolution is less than one~~ 35330
dollar per ton, the fee shall be one dollar per ton on and after 35331

~~January 1, 1994, and if the fee that a district is so levying 35332
under that division exceeds two dollars per ton, the fee shall be 35333
two dollars per ton on and after that date. If the fee that a 35334
district is so levying under division (B)(2) of this section is 35335
less than two dollars per ton, the fee shall be two dollars per 35336
ton on and after that date, and if the fee that the district is so 35337
levying under that division exceeds four dollars per ton, the fee 35338
shall be four dollars per ton on and after that date. On that 35339
date, the fee levied by a district under division (B)(3) of this 35340
section shall be equal to the fee levied under division (B)(1) of 35341
this section. Except as otherwise provided in this division, the 35342
fees established by the operation of this amendment shall remain 35343
in effect until the district's resolution levying fees under this 35344
division is amended or repealed in accordance with this division 35345
to amend or abolish the schedule of fees, the schedule of fees is 35346
amended or abolished in an amended plan of the district approved 35347
under section 3734.521 or division (A) or (D) of section 3734.56 35348
of the Revised Code, or the schedule of fees is amended or 35349
abolished through an amendment to the district's plan under 35350
division (E) of section 3734.56 of the Revised Code; the 35351
notification of the amendment or abolishment of the fees has been 35352
given in accordance with this division; and collection of the 35353
amended fees so established commences, or collection of the fees 35354
ceases, in accordance with this division. 35355~~

~~The solid waste management policy committee of a district 35356
levying fees under divisions (B)(1) to (3) of this section on 35357
October 29, 1993, under its solid waste management plan approved 35358
under section 3734.55 of the Revised Code or a resolution adopted 35359
and ratified under this division that are within the ranges of 35360
rates prescribed by this amendment, by adoption of a resolution 35361
not later than December 1, 1993, and without the necessity for 35362
ratification of the resolution under this division, may amend 35363
those fees within the prescribed ranges, provided that the 35364~~

~~estimated revenues from the amended fees will not substantially
exceed the estimated revenues set forth in the district's budget
for calendar year 1994. Not later than seven days after the
adoption of such a resolution, the committee shall notify by
certified mail the owner or operator of each solid waste disposal
facility that is required to collect the fees of the adoption of
the resolution and of the amount of the amended fees. Collection
of the amended fees shall take effect on the first day of the
first month following the month in which the notification is sent
to the owner or operator. The fees established in such a
resolution shall remain in effect until the district's resolution
levying fees that was adopted and ratified under this division is
amended or repealed, and the amendment or repeal of the resolution
is ratified, in accordance with this division, to amend or abolish
the fees, the schedule of fees is amended or abolished in an
amended plan of the district approved under section 3734.521 or
division (A) or (D) of section 3734.56 of the Revised Code, or the
schedule of fees is amended or abolished through an amendment to
the district's plan under division (E) of section 3734.56 of the
Revised Code; the notification of the amendment or abolishment of
the fees has been given in accordance with this division; and
collection of the amended fees so established commences, or
collection of the fees ceases, in accordance with this division.~~

Prior to the approval of the solid waste management plan of
~~the~~ a district under section 3734.55 of the Revised Code, the
solid waste management policy committee of a district may levy
fees under this division by adopting a resolution establishing the
proposed amount of the fees. Upon adopting the resolution, the
committee shall deliver a copy of the resolution to the board of
county commissioners of each county forming the district and to
the legislative authority of each municipal corporation and
township under the jurisdiction of the district and shall prepare

and publish the resolution and a notice of the time and location 35397
where a public hearing on the fees will be held. Upon adopting the 35398
resolution, the committee shall deliver written notice of the 35399
adoption of the resolution; of the amount of the proposed fees; 35400
and of the date, time, and location of the public hearing to the 35401
director and to the fifty industrial, commercial, or institutional 35402
generators of solid wastes within the district that generate the 35403
largest quantities of solid wastes, as determined by the 35404
committee, and to their local trade associations. The committee 35405
shall make good faith efforts to identify those generators within 35406
the district and their local trade associations, but the 35407
nonprovision of notice under this division to a particular 35408
generator or local trade association does not invalidate the 35409
proceedings under this division. The publication shall occur at 35410
least thirty days before the hearing. After the hearing, the 35411
committee may make such revisions to the proposed fees as it 35412
considers appropriate and thereafter, by resolution, shall adopt 35413
the revised fee schedule. Upon adopting the revised fee schedule, 35414
the committee shall deliver a copy of the resolution doing so to 35415
the board of county commissioners of each county forming the 35416
district and to the legislative authority of each municipal 35417
corporation and township under the jurisdiction of the district. 35418
Within sixty days after the delivery of a copy of the resolution 35419
adopting the proposed revised fees by the policy committee, each 35420
such board and legislative authority, by ordinance or resolution, 35421
shall approve or disapprove the revised fees and deliver a copy of 35422
the ordinance or resolution to the committee. If any such board or 35423
legislative authority fails to adopt and deliver to the policy 35424
committee an ordinance or resolution approving or disapproving the 35425
revised fees within sixty days after the policy committee 35426
delivered its resolution adopting the proposed revised fees, it 35427
shall be conclusively presumed that the board or legislative 35428
authority has approved the proposed revised fees. The committee 35429

shall determine if the resolution has been ratified in the same 35430
manner in which it determines if a draft solid waste management 35431
plan has been ratified under division (B) of section 3734.55 of 35432
the Revised Code. 35433

~~In the case of a county district or a joint district formed~~ 35434
~~by two or three counties, the committee shall declare the proposed~~ 35435
~~revised fees to be ratified as the fee schedule of the district~~ 35436
~~upon determining that the board of county commissioners of each~~ 35437
~~county forming the district has approved the proposed revised fees~~ 35438
~~and that the legislative authorities of a combination of municipal~~ 35439
~~corporations and townships with a combined population within the~~ 35440
~~district comprising at least sixty per cent of the total~~ 35441
~~population of the district have approved the proposed revised~~ 35442
~~fees, provided that in the case of a county district, that~~ 35443
~~combination shall include the municipal corporation having the~~ 35444
~~largest population within the boundaries of the district, and~~ 35445
~~provided further that in the case of a joint district formed by~~ 35446
~~two or three counties, that combination shall include for each~~ 35447
~~county forming the joint district the municipal corporation having~~ 35448
~~the largest population within the boundaries of both the county in~~ 35449
~~which the municipal corporation is located and the joint district.~~ 35450
~~In the case of a joint district formed by four or more counties,~~ 35451
~~the committee shall declare the proposed revised fees to be~~ 35452
~~ratified as the fee schedule of the joint district upon~~ 35453
~~determining that the boards of county commissioners of a majority~~ 35454
~~of the counties forming the district have approved the proposed~~ 35455
~~revised fees; that, in each of a majority of the counties forming~~ 35456
~~the joint district, the proposed revised fees have been approved~~ 35457
~~by the municipal corporation having the largest population within~~ 35458
~~the county and the joint district; and that the legislative~~ 35459
~~authorities of a combination of municipal corporations and~~ 35460
~~townships with a combined population within the joint district~~ 35461
~~comprising at least sixty per cent of the total population of the~~ 35462

~~joint district have approved the proposed revised fees.~~ 35463

~~For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.~~ 35464
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The committee may amend the schedule of fees levied pursuant to a resolution ~~or amended resolution~~ adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may ~~abolish~~ repeal the fees levied pursuant to such a resolution ~~or amended resolution~~ by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division. 35474
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Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees ~~or amended fees ratified on or after March 24, 1992,~~ shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator. 35482
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~~Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this~~ 35492
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~~division, the committee shall notify by certified mail the owner
or operator of each facility that is collecting the fees of the
repeal. Collection of the fees shall cease on the first day of the
second month following the month in which notification is sent to
the owner or operator.~~

Fees levied under this division also may be established,
amended, or repealed by a solid waste management policy committee
through the adoption of a new district solid waste management
plan, the adoption of an amended plan, or the amendment of the
plan or amended plan in accordance with sections 3734.55 and
3734.56 of the Revised Code or the adoption or amendment of a
district plan in connection with a change in district composition
under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an
order approving a district's solid waste management plan ~~under
section 3734.55 of the Revised Code or~~ amended plan under
division (A) or (D) of section 3734.56 of the Revised Code, or
amendment to a plan or amended plan that establishes ~~or~~ amends,
or repeals a schedule of fees levied by the district, ~~or the
ratification of an amendment to the district's approved plan or
amended plan under division (E) of section 3734.56 of the Revised
Code that establishes or amends a schedule of fees, as
appropriate,~~ the committee shall notify by certified mail the
owner or operator of each solid waste disposal facility that is
required to collect the fees of the approval of the plan or
amended plan, or the amendment to the plan, as appropriate, and
the amount of the fees ~~or amended fees, if any.~~ In the case of an
initial or amended plan approved under section 3734.521 of the
Revised Code in connection with a change in district composition,
other than one involving the withdrawal of a county from a joint
district, ~~that establishes or amends a schedule of fees levied
under divisions (B)(1) to (3) of this section by a district~~

~~resulting from the change, the committee, within fourteen days~~ 35526
~~after the change takes effect pursuant to division (G) of that~~ 35527
~~section, shall notify by certified mail the owner or operator of~~ 35528
~~each solid waste disposal facility that is required to collect the~~ 35529
~~fees that the change has taken effect and of the amount of the~~ 35530
~~fees or amended fees, if any. Collection of any fees set forth in~~ 35531
~~a plan or amended plan approved by the director on or after April~~ 35532
~~16, 1993, or an amendment of a plan or amended plan under division~~ 35533
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 35534
~~after April 16, 1993, shall commence or collection of repealed~~ 35535
~~fees shall cease on the first day of the second month following~~ 35536
~~the month in which notification is sent to the owner or operator.~~ 35537

~~Not later than fourteen days after the director issues an~~ 35538
~~order approving a district's plan under section 3734.55 of the~~ 35539
~~Revised Code or amended plan under division (A) or (D) of section~~ 35540
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 35541
~~levied under divisions (B)(1) to (3) of this section, or an~~ 35542
~~amendment to the district's approved plan or amended plan~~ 35543
~~abolishing the schedule of fees is ratified pursuant to division~~ 35544
~~(E) of section 3734.56 of the Revised Code, as appropriate, the~~ 35545
~~committee shall notify by certified mail the owner or operator of~~ 35546
~~each facility that is collecting the fees of the approval of the~~ 35547
~~plan or amended plan, or the amendment of the plan or amended~~ 35548
~~plan, as appropriate, and the abolishment of the fees. In the case~~ 35549
~~of an initial or amended plan approved under section 3734.521 of~~ 35550
~~the Revised Code in connection with a change in district~~ 35551
~~composition, other than one involving the withdrawal of a county~~ 35552
~~from a joint district, that abolishes the schedule of fees levied~~ 35553
~~under divisions (B)(1) to (3) of this section by a district~~ 35554
~~resulting from the change, the committee, within fourteen days~~ 35555
~~after the change takes effect pursuant to division (G) of that~~ 35556
~~section, shall notify by certified mail the owner or operator of~~ 35557
~~each solid waste disposal facility that is required to collect the~~ 35558

~~fees that the change has taken effect and of the abolishment of 35559
the fees. Collection of the fees shall cease on the first day of 35560
the second month following the month in which notification is sent 35561
to the owner or operator. 35562~~

~~Except as otherwise provided in this division, if the 35563
schedule of fees that a district is levying under divisions (B)(1) 35564
to (3) of this section pursuant to a resolution or amended 35565
resolution adopted and ratified under this division, the solid 35566
waste management plan of the district approved under section 35567
3734.55 of the Revised Code, an amended plan approved under 35568
division (A) or (D) of section 3734.56 of the Revised Code, or an 35569
amendment to the district's approved plan or amended plan under 35570
division (E) of section 3734.56 of the Revised Code, is amended by 35571
the adoption and ratification of an amendment to the resolution or 35572
amended resolution or an amendment of the district's approved plan 35573
or amended plan, the fees in effect immediately prior to the 35574
approval of the plan or the amendment of the resolution, amended 35575
resolution, plan, or amended plan, as appropriate, shall continue 35576
to be collected until collection of the amended fees commences 35577
pursuant to this division. 35578~~

If, in the case of a change in district composition involving 35579
the withdrawal of a county from a joint district, the director 35580
completes the actions required under division (G)(1) or (3) of 35581
section 3734.521 of the Revised Code, as appropriate, forty-five 35582
days or more before the beginning of a calendar year, the policy 35583
committee of each of the districts resulting from the change that 35584
obtained the director's approval of an initial or amended plan in 35585
connection with the change, within fourteen days after the 35586
director's completion of the required actions, shall notify by 35587
certified mail the owner or operator of each solid waste disposal 35588
facility that is required to collect the district's fees that the 35589
change is to take effect on the first day of January immediately 35590

following the issuance of the notice and of the amount of the fees 35591
or amended fees levied under divisions (B)(1) to (3) of this 35592
section pursuant to the district's initial or amended plan as so 35593
approved or, if appropriate, the ~~abolishment~~ repeal of the 35594
district's fees by that initial or amended plan. Collection of any 35595
fees set forth in such a plan or amended plan shall commence on 35596
the first day of January immediately following the issuance of the 35597
notice. If such an initial or amended plan ~~abolishes~~ repeals a 35598
schedule of fees, collection of the fees shall cease on that first 35599
day of January. 35600

If, in the case of a change in district composition involving 35601
the withdrawal of a county from a joint district, the director 35602
completes the actions required under division (G)(1) or (3) of 35603
section 3734.521 of the Revised Code, as appropriate, less than 35604
forty-five days before the beginning of a calendar year, the 35605
director, on behalf of each of the districts resulting from the 35606
change that obtained the director's approval of an initial or 35607
amended plan in connection with the change proceedings, shall 35608
notify by certified mail the owner or operator of each solid waste 35609
disposal facility that is required to collect the district's fees 35610
that the change is to take effect on the first day of January 35611
immediately following the mailing of the notice and of the amount 35612
of the fees or amended fees levied under divisions (B)(1) to (3) 35613
of this section pursuant to the district's initial or amended plan 35614
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 35615
district's fees by that initial or amended plan. Collection of any 35616
fees set forth in such a plan or amended plan shall commence on 35617
the first day of the second month following the month in which 35618
notification is sent to the owner or operator. If such an initial 35619
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 35620
of the fees shall cease on the first day of the second month 35621
following the month in which notification is sent to the owner or 35622

operator. 35623

~~If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, the schedule of fees that the former districts that existed prior to the change were levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of a former district approved under section 3734.521 or 3734.55 of the Revised Code, an amended plan approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to a former district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, and that were in effect on the date that the director completed the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code shall continue to be collected until the collection of the fees or amended fees of the districts resulting from the change is required to commence, or if an initial or amended plan of a resulting district abolishes a schedule of fees, collection of the fees is required to cease, under this division.~~ 35624
~~Moneys~~ money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements. 35625
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For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended 35653
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fees levied by a district are required to commence and the 35655
collection of fees that have been amended or ~~abolished~~ repealed is 35656
required to cease, "fees" or "schedule of fees" includes, in 35657
addition to fees levied under divisions (B)(1) to (3) of this 35658
section, those levied under section 3734.573 or 3734.574 of the 35659
Revised Code. 35660

(C) For the purposes of defraying the added costs to a 35661
municipal corporation or township of maintaining roads and other 35662
public facilities and of providing emergency and other public 35663
services, and compensating a municipal corporation or township for 35664
reductions in real property tax revenues due to reductions in real 35665
property valuations resulting from the location and operation of a 35666
solid waste disposal facility within the municipal corporation or 35667
township, a municipal corporation or township in which such a 35668
solid waste disposal facility is located may levy a fee of not 35669
more than twenty-five cents per ton on the disposal of solid 35670
wastes at a solid waste disposal facility located within the 35671
boundaries of the municipal corporation or township regardless of 35672
where the wastes were generated. 35673

The legislative authority of a municipal corporation or 35674
township may levy fees under this division by enacting an 35675
ordinance or adopting a resolution establishing the amount of the 35676
fees. Upon so doing the legislative authority shall mail a 35677
certified copy of the ordinance or resolution to the board of 35678
county commissioners or directors of the county or joint solid 35679
waste management district in which the municipal corporation or 35680
township is located or, if a regional solid waste management 35681
authority has been formed under section 343.011 of the Revised 35682
Code, to the board of trustees of that regional authority, the 35683
owner or operator of each solid waste disposal facility in the 35684
municipal corporation or township that is required to collect the 35685
fee by the ordinance or resolution, and the director of 35686

environmental protection. Although the fees levied under this 35687
division are levied on the basis of tons as the unit of 35688
measurement, the legislative authority, in its ordinance or 35689
resolution levying the fees under this division, may direct that 35690
the fees be levied on the basis of cubic yards as the unit of 35691
measurement based upon a conversion factor of three cubic yards 35692
per ton generally or one cubic yard per ton for baled wastes. 35693

Not later than five days after enacting an ordinance or 35694
adopting a resolution under this division, the legislative 35695
authority shall so notify by certified mail the owner or operator 35696
of each solid waste disposal facility that is required to collect 35697
the fee. Collection of any fee levied on or after March 24, 1992, 35698
shall commence on the first day of the second month following the 35699
month in which notification is sent to the owner or operator. 35700

(D)(1) The fees levied under divisions (A), (B), and (C) of 35701
this section do not apply to the disposal of solid wastes that: 35702

(a) Are disposed of at a facility owned by the generator of 35703
the wastes when the solid waste facility exclusively disposes of 35704
solid wastes generated at one or more premises owned by the 35705
generator regardless of whether the facility is located on a 35706
premises where the wastes are generated; 35707

(b) Are disposed of at facilities that exclusively dispose of 35708
wastes that are generated from the combustion of coal, or from the 35709
combustion of primarily coal in combination with scrap tires, that 35710
is not combined in any way with garbage at one or more premises 35711
owned by the generator. 35712

(2) Except as provided in section 3734.571 of the Revised 35713
Code, any fees levied under division (B)(1) of this section apply 35714
to solid wastes originating outside the boundaries of a county or 35715
joint district that are covered by an agreement for the joint use 35716
of solid waste facilities entered into under section 343.02 of the 35717

Revised Code by the board of county commissioners or board of
directors of the county or joint district where the wastes are
generated and disposed of.

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(3) When solid wastes, other than solid wastes that consist
of scrap tires, are burned in a disposal facility that is an
incinerator or energy recovery facility, the fees levied under
divisions (A), (B), and (C) of this section shall be levied upon
the disposal of the fly ash and bottom ash remaining after burning
of the solid wastes and shall be collected by the owner or
operator of the sanitary landfill where the ash is disposed of.

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(4) When solid wastes are delivered to a solid waste transfer
facility, the fees levied under divisions (A), (B), and (C) of
this section shall be levied upon the disposal of solid wastes
transported off the premises of the transfer facility for disposal
and shall be collected by the owner or operator of the solid waste
disposal facility where the wastes are disposed of.

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(5) The fees levied under divisions (A), (B), and (C) of this
section do not apply to sewage sludge that is generated by a waste
water treatment facility holding a national pollutant discharge
elimination system permit and that is disposed of through
incineration, land application, or composting or at another
resource recovery or disposal facility that is not a landfill.

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(6) The fees levied under divisions (A), (B), and (C) of this
section do not apply to solid wastes delivered to a solid waste
composting facility for processing. When any unprocessed solid
waste or compost product is transported off the premises of a
composting facility and disposed of at a landfill, the fees levied
under divisions (A), (B), and (C) of this section shall be
collected by the owner or operator of the landfill where the
unprocessed waste or compost product is disposed of.

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(7) When solid wastes that consist of scrap tires are

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processed at a scrap tire recovery facility, the fees levied under 35749
divisions (A), (B), and (C) of this section shall be levied upon 35750
the disposal of the fly ash and bottom ash or other solid wastes 35751
remaining after the processing of the scrap tires and shall be 35752
collected by the owner or operator of the solid waste disposal 35753
facility where the ash or other solid wastes are disposed of. 35754

(E) The fees levied under divisions (B) and (C) of this 35755
section shall be collected by the owner or operator of the solid 35756
waste disposal facility where the wastes are disposed of as a 35757
trustee for the county or joint district and municipal corporation 35758
or township where the wastes are disposed of. Moneys from the fees 35759
levied under division (B) of this section shall be forwarded to 35760
the board of county commissioners or board of directors of the 35761
district in accordance with rules adopted under division (H) of 35762
this section. Moneys from the fees levied under division (C) of 35763
this section shall be forwarded to the treasurer or such other 35764
officer of the municipal corporation as, by virtue of the charter, 35765
has the duties of the treasurer or to the clerk of the township, 35766
as appropriate, in accordance with those rules. 35767

(F) Moneys received by the treasurer or such other officer of 35768
the municipal corporation under division (E) of this section shall 35769
be paid into the general fund of the municipal corporation. Moneys 35770
received by the clerk of the township under that division shall be 35771
paid into the general fund of the township. The treasurer or such 35772
other officer of the municipal corporation or the clerk, as 35773
appropriate, shall maintain separate records of the moneys 35774
received from the fees levied under division (C) of this section. 35775

(G) Moneys received by the board of county commissioners or 35776
board of directors under division (E) of this section or section 35777
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 35778
shall be paid to the county treasurer, or other official acting in 35779
a similar capacity under a county charter, in a county district or 35780

to the county treasurer or other official designated by the board 35781
of directors in a joint district and kept in a separate and 35782
distinct fund to the credit of the district. If a regional solid 35783
waste management authority has been formed under section 343.011 35784
of the Revised Code, moneys received by the board of trustees of 35785
that regional authority under division (E) of this section shall 35786
be kept by the board in a separate and distinct fund to the credit 35787
of the district. Moneys in the special fund of the county or joint 35788
district arising from the fees levied under division (B) of this 35789
section and the fee levied under division (A) of section 3734.573 35790
of the Revised Code shall be expended by the board of county 35791
commissioners or directors of the district in accordance with the 35792
district's solid waste management plan or amended plan approved 35793
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 35794
exclusively for the following purposes: 35795

(1) Preparation of the solid waste management plan of the 35796
district under section 3734.54 of the Revised Code, monitoring 35797
implementation of the plan, and conducting the periodic review and 35798
amendment of the plan required by section 3734.56 of the Revised 35799
Code by the solid waste management policy committee; 35800

(2) Implementation of the approved solid waste management 35801
plan or amended plan of the district, including, without 35802
limitation, the development and implementation of solid waste 35803
recycling or reduction programs; 35804

(3) Providing financial assistance to boards of health within 35805
the district, if solid waste facilities are located within the 35806
district, for enforcement of this chapter and rules, orders, and 35807
terms and conditions of permits, licenses, and variances adopted 35808
or issued under it, other than the hazardous waste provisions of 35809
this chapter and rules adopted and orders and terms and conditions 35810
of permits issued under those provisions; 35811

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;	35812 35813 35814 35815 35816 35817
(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;	35818 35819 35820 35821 35822 35823
(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;	35824 35825 35826 35827
(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;	35828 35829 35830 35831 35832
(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;	35833 35834 35835 35836 35837 35838 35839 35840 35841
(9) Providing financial assistance to individual municipal	35842

corporations and townships within the district to defray their 35843
added costs of maintaining roads and other public facilities and 35844
of providing emergency and other public services resulting from 35845
the location and operation within their boundaries of a 35846
composting, energy or resource recovery, incineration, or 35847
recycling facility that either is owned by the district or is 35848
furnishing solid waste management facility or recycling services 35849
to the district pursuant to a contract or agreement with the board 35850
of county commissioners or directors of the district; 35851

(10) Payment of any expenses that are agreed to, awarded, or 35852
ordered to be paid under section 3734.35 of the Revised Code and 35853
of any administrative costs incurred pursuant to that section. In 35854
the case of a joint solid waste management district, if the board 35855
of county commissioners of one of the counties in the district is 35856
negotiating on behalf of affected communities, as defined in that 35857
section, in that county, the board shall obtain the approval of 35858
the board of directors of the district in order to expend moneys 35859
for administrative costs incurred. 35860

Prior to the approval of the district's solid waste 35861
management plan under section 3734.55 of the Revised Code, moneys 35862
in the special fund of the district arising from the fees shall be 35863
expended for those purposes in the manner prescribed by the solid 35864
waste management policy committee by resolution. 35865

Notwithstanding division (G)(6) of this section as it existed 35866
prior to October 29, 1993, or any provision in a district's solid 35867
waste management plan prepared in accordance with division 35868
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 35869
prior to that date, any moneys arising from the fees levied under 35870
division (B)(3) of this section prior to January 1, 1994, may be 35871
expended for any of the purposes authorized in divisions (G)(1) to 35872
(10) of this section. 35873

(H) The director shall adopt rules in accordance with Chapter 35874
119. of the Revised Code prescribing procedures for collecting and 35875
forwarding the fees levied under divisions (B) and (C) of this 35876
section to the boards of county commissioners or directors of 35877
county or joint solid waste management districts and to the 35878
treasurers or other officers of municipal corporations or to the 35879
clerks of townships. The rules also shall prescribe the dates for 35880
forwarding the fees to the boards and officials and may prescribe 35881
any other requirements the director considers necessary or 35882
appropriate to implement and administer divisions (A), (B), and 35883
(C) of this section. ~~Collection of the fees levied under division~~ 35884
~~(A)(1) of this section shall commence on July 1, 1993. Collection~~ 35885
~~of the fees levied under division (A)(2) of this section shall~~ 35886
~~commence on January 1, 1994.~~ 35887

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 35888
defray the cost of administering and enforcing the scrap tire 35889
provisions of this chapter, rules adopted under those provisions, 35890
and terms and conditions of orders, variances, and licenses issued 35891
under those provisions; to abate accumulations of scrap tires; to 35892
make grants to promote research regarding alternative methods of 35893
recycling scrap tires and loans to promote the recycling or 35894
recovery of energy from scrap tires; and to defray the costs of 35895
administering and enforcing sections 3734.90 to 3734.9014 of the 35896
Revised Code, a fee of fifty cents per tire is hereby levied on 35897
the sale of tires. The fee is levied from the first day of the 35898
calendar month that begins next after thirty days from October 29, 35899
1993, through June 30, ~~2006~~ 2011. 35900

(2) Beginning on ~~the effective date of this section~~ September 35901
5, 2001, and ending on June 30, 2011, there is hereby levied an 35902
additional fee of fifty cents per tire on the sale of tires the 35903
proceeds of which shall be deposited in the state treasury to the 35904

credit of the scrap tire management fund created in section 35905
3734.82 of the Revised Code and be used exclusively for the 35906
purposes specified in division (G)(3) of that section. 35907

(3) Beginning July 1, 2005, there is hereby levied an 35908
additional fee of one dollar per tire on the sale of tires, the 35909
proceeds of which shall be deposited into the state treasury to 35910
the credit of the recycling and litter prevention fund created in 35911
section 1502.02 of the Revised Code. 35912

(B) Only one sale of the same article shall be used in 35913
computing the amount of the fee due. 35914

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 35915
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 35916
the Revised Code shall be certified directly to the credit of the 35917
tire fee administrative fund, which is hereby created in the state 35918
treasury, for appropriation to the department of taxation for use 35919
in administering those sections. The remainder of the amounts paid 35920
to the treasurer of state shall be deposited to the credit of the 35921
scrap tire management fund created in section 3734.82 of the 35922
Revised Code, except that the amounts from the fee levied under 35923
division (A)(3) of section 3734.901 of the Revised Code shall be 35924
deposited to the credit of the recycling and litter prevention 35925
fund created in section 1502.02 of the Revised Code. 35926

Sec. 3743.57. (A) All fees collected by the fire marshal for 35927
licenses or permits issued pursuant to this chapter shall be 35928
deposited into the state fire marshal's fund, and interest earned 35929
on the amounts in the fund shall be credited by the treasurer of 35930
state to the fund. 35931

~~(B) There is hereby established in the state treasury the~~ 35932
~~fire marshal's fireworks training and education fund. The fire~~ 35933
~~marshal shall deposit all assessments paid under this division~~ 35934

~~into the state treasury to the credit of the fund. Each fireworks 35935
manufacturer and fireworks wholesaler licensed under this chapter 35936
shall pay assessments to the fire marshal for deposit into the 35937
fund as required by this division. 35938~~

~~The fire marshal shall impose an initial assessment upon each 35939
licensed fireworks manufacturer and wholesaler in order to 35940
establish a fund balance of fifteen thousand dollars. The fund 35941
balance shall at no time exceed fifteen thousand dollars, and the 35942
fire marshal shall impose no further assessments unless the fund 35943
balance is reduced to five thousand dollars or less. If the fund 35944
balance is reduced to five thousand dollars or less, the fire 35945
marshal shall impose an additional assessment upon each licensed 35946
fireworks manufacturer and wholesaler in order to increase the 35947
fund balance to fifteen thousand dollars. The fire marshal shall 35948
determine the amount of the initial assessment on each 35949
manufacturer or wholesaler and each additional assessment by 35950
dividing the total amount needed to be paid into the fund by the 35951
total number of fireworks manufacturers and wholesalers licensed 35952
under this chapter. If a licensed fireworks manufacturer or 35953
wholesaler fails to pay an assessment required by this division 35954
within thirty days after receiving notice of the assessment, the 35955
fire marshal, in accordance with Chapter 119. of the Revised Code, 35956
may refuse to issue, or may revoke, the appropriate license. 35957~~

The fire marshal shall in the fire marshal's discretion use 35958
amounts in the state fire marshal's fund for fireworks training 35959
and education purposes, including, but not limited to, the 35960
creation of educational and training programs, attendance by the 35961
fire marshal and the fire marshal's employees at conferences and 35962
seminars, the payment of travel and meal expenses associated with 35963
such attendance, participation by the fire marshal and the fire 35964
marshal's employees in committee meetings and other meetings 35965
related to pyrotechnic codes, and the payment of travel and meal 35966

expenses associated with such participation. The use of the fund 35967
shall comply with rules of the department of commerce, policies 35968
and procedures established by the director of budget and 35969
management, and all other applicable laws. 35970

Sec. 3745.015. There is hereby created in the state treasury 35971
the environmental protection fund consisting of money credited to 35972
the fund under division (A)(3) of section 3734.57 of the Revised 35973
Code. The environmental protection agency shall use money in the 35974
fund to pay the agency's costs associated with administering and 35975
enforcing, or otherwise conducting activities under, this chapter 35976
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 35977
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 35978
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 35979
the Revised Code. 35980

Sec. 3745.11. (A) Applicants for and holders of permits, 35981
licenses, variances, plan approvals, and certifications issued by 35982
the director of environmental protection pursuant to Chapters 35983
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 35984
to the environmental protection agency for each such issuance and 35985
each application for an issuance as provided by this section. No 35986
fee shall be charged for any issuance for which no application has 35987
been submitted to the director. 35988

(B) Each person who is issued a permit to install prior to 35989
July 1, 2003, pursuant to rules adopted under division (F) of 35990
section 3704.03 of the Revised Code shall pay the fees specified 35991
in the following schedules: 35992

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers) 35993
Input capacity (maximum) 35994
(million British thermal units per hour) Permit to install 35995
Greater than 0, but less than 10 \$ 200 35996

10 or more, but less than 100	400	35997
100 or more, but less than 300	800	35998
300 or more, but less than 500	1500	35999
500 or more, but less than 1000	2500	36000
1000 or more, but less than 5000	4000	36001
5000 or more	6000	36002

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half of the applicable
amount established in division (F)(1) of this section.

(2) Incinerators		36006
Input capacity (pounds per hour)	Permit to install	36007
0 to 100	\$ 100	36008
101 to 500	400	36009
501 to 2000	750	36010
2001 to 20,000	1000	36011
more than 20,000	2500	36012

<u>(3)</u> (a) Process		36013
Process weight rate (pounds per hour)	Permit to install	36014
0 to 1000	\$ 200	36015
1001 to 5000	400	36016
5001 to 10,000	600	36017
10,001 to 50,000	800	36018
more than 50,000	1000	36019

In any process where process weight rate cannot be
ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any
person issued a permit to install pursuant to rules adopted under
division (F) of section 3704.03 of the Revised Code shall pay the
fees established in division (B)(3)(c) of this section for a
process used in any of the following industries, as identified by
the applicable four-digit standard industrial classification code

according to the Standard Industrial Classification Manual	36028	
published by the United States office of management and budget in	36029	
the executive office of the president, 1972, as revised:	36030	
1211 Bituminous coal and lignite mining;	36031	
1213 Bituminous coal and lignite mining services;	36032	
1411 Dimension stone;	36033	
1422 Crushed and broken limestone;	36034	
1427 Crushed and broken stone, not elsewhere classified;	36035	
1442 Construction sand and gravel;	36036	
1446 Industrial sand;	36037	
3281 Cut stone and stone products;	36038	
3295 Minerals and earth, ground or otherwise treated.	36039	
(c) The fees established in the following schedule apply to	36040	
the issuance of a permit to install pursuant to rules adopted	36041	
under division (F) of section 3704.03 of the Revised Code for a	36042	
process listed in division (B)(3)(b) of this section:	36043	
Process weight rate (pounds per hour)	Permit to install	36044
0 to 1000	\$ 200	36045
10,001 to 50,000	300	36046
50,001 to 100,000	400	36047
100,001 to 200,000	500	36048
200,001 to 400,000	600	36049
400,001 or more	700	36050
(4) Storage tanks	36051	
Gallons (maximum useful capacity)	Permit to install	36052
0 to 20,000	\$ 100	36053
20,001 to 40,000	150	36054
40,001 to 100,000	200	36055
100,001 to 250,000	250	36056

250,001 to 500,000	350	36057
500,001 to 1,000,000	500	36058
1,000,001 or greater	750	36059
(5) Gasoline/fuel dispensing facilities		36060
For each gasoline/fuel dispensing facility	Permit to install	36061
	\$ 100	36062
(6) Dry cleaning facilities		36063
For each dry cleaning facility (includes all units at the facility)	Permit to install	36064
	\$ 100	36065
(7) Registration status		36066
For each source covered by registration status	Permit to install	36067
	\$ 75	36068
(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.		36069 36070 36071 36072 36073 36074 36075 36076 36077
The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:		36078 36079 36080 36081
(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;		36082 36083 36084
(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;		36085 36086 36087

(c) Twenty-five dollars per ton on the total actual emissions 36088
of each such regulated pollutant in calendar year 1995, and each 36089
subsequent calendar year, to be collected no sooner than the 36090
fifteenth day of April of the year next succeeding the calendar 36091
year in which the emissions occurred. 36092

The fees levied under division (C)(1) of this section do not 36093
apply to that portion of the emissions of a regulated pollutant at 36094
a facility that exceed four thousand tons during a calendar year. 36095

(2) The fees assessed under division (C)(1) of this section 36096
are for the purpose of providing funding for the Title V permit 36097
program. 36098

(3) The fees assessed under division (C)(1) of this section 36099
do not apply to emissions from any electric generating unit 36100
designated as a Phase I unit under Title IV of the federal Clean 36101
Air Act prior to calendar year 2000. Those fees shall be assessed 36102
on the emissions from such a generating unit commencing in 36103
calendar year 2001 based upon the total actual emissions from the 36104
generating unit during calendar year 2000 and shall continue to be 36105
assessed each subsequent calendar year based on the total actual 36106
emissions from the generating unit during the preceding calendar 36107
year. 36108

(4) The director shall issue invoices to owners or operators 36109
of air contaminant sources who are required to pay a fee assessed 36110
under division (C) or (D) of this section. Any such invoice shall 36111
be issued no sooner than the applicable date when the fee first 36112
may be collected in a year under the applicable division, shall 36113
identify the nature and amount of the fee assessed, and shall 36114
indicate that the fee is required to be paid within thirty days 36115
after the issuance of the invoice. 36116

(D)(1) Except as provided in division (D)(3) of this section, 36117
from January 1, 1994, through December 31, 2003, each person who 36118

owns or operates an air contaminant source; who is required to
apply for a permit to operate pursuant to rules adopted under
division (G), or a variance pursuant to division (H), of section
3704.03 of the Revised Code; and who is not required to apply for
and obtain a Title V permit under section 3704.036 of the Revised
Code shall pay a single fee based upon the sum of the actual
annual emissions from the facility of the regulated pollutants
particulate matter, sulfur dioxide, nitrogen oxides, organic
compounds, and lead in accordance with the following schedule:

Total tons per year 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:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300

100 or more 700 36151

(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 conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility	
Less than 10	\$ 170	36165
10 or more, but less than 20	340	36166
20 or more, but less than 30	670	36167
30 or more, but less than 40	1,010	36168
40 or more, but less than 50	1,340	36169
50 or more, but less than 60	1,680	36170
60 or more, but less than 70	2,010	36171
70 or more, but less than 80	2,350	36172
80 or more, but less than 90	2,680	36173
90 or more, but less than 100	3,020	36174
100 or more	3,350	36175

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the

fifteenth day of April, commencing in 2005. The fees assessed 36183
under division (D)(3) of this section shall be collected no sooner 36184
than the fifteenth day of April, commencing in 2000. The fees 36185
assessed under division (D) of this section in a calendar year 36186
shall be based upon the sum of the actual emissions of those 36187
regulated pollutants during the preceding calendar year. For the 36188
purpose of division (D) of this section, emissions of air 36189
contaminants may be calculated using engineering calculations, 36190
emission factors, material balance calculations, or performance 36191
testing procedures, as authorized by the director. The director, 36192
by rule, may require persons who are required to pay the fees 36193
assessed under division (D) of this section to pay those fees 36194
biennially rather than annually. 36195

(E)(1) Consistent with the need to cover the reasonable costs 36196
of the Title V permit program, the director annually shall 36197
increase the fees prescribed in division (C)(1) of this section by 36198
the percentage, if any, by which the consumer price index for the 36199
most recent calendar year ending before the beginning of a year 36200
exceeds the consumer price index for calendar year 1989. Upon 36201
calculating an increase in fees authorized by division (E)(1) of 36202
this section, the director shall compile revised fee schedules for 36203
the purposes of division (C)(1) of this section and shall make the 36204
revised schedules available to persons required to pay the fees 36205
assessed under that division and to the public. 36206

(2) For the purposes of division (E)(1) of this section: 36207

(a) The consumer price index for any year is the average of 36208
the consumer price index for all urban consumers published by the 36209
United States department of labor as of the close of the 36210
twelve-month period ending on the thirty-first day of August of 36211
that year. 36212

(b) If the 1989 consumer price index is revised, the director 36213

shall use the revision of the consumer price index that is most
consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to
rules adopted under division (F) of section 3704.03 of the Revised
Code on or after July 1, 2003, shall pay the fees specified in the
following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process
heaters used in the process of burning fuel for the primary
purpose of producing heat or power by indirect heat transfer)
Input capacity (maximum)
(million British thermal units per hour) Permit to install

Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil,
or both shall be assessed a fee that is one-half the applicable
amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion
engines designed to generate electricity
Generating capacity (mega watts) Permit to install

0 or more, but less than 10	\$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install	36245
0 to 100	\$ 100	36246
101 to 500	500	36247
501 to 2000	1000	36248
2001 to 20,000	1500	36249
more than 20,000	3750	36250

(4)(a) Process 36251

Process weight rate (pounds per hour)	Permit to install	36252
0 to 1000	\$ 200	36253
1001 to 5000	500	36254
5001 to 10,000	750	36255
10,001 to 50,000	1000	36256
more than 50,000	1250	36257

In any process where process weight rate cannot be 36258
ascertained, the minimum fee shall be assessed. A boiler, furnace, 36259
combustion turbine, stationary internal combustion engine, or 36260
process heater designed to provide direct heat or power to a 36261
process not designed to generate electricity shall be assessed a 36262
fee established in division (F)(4)(a) of this section. A 36263
combustion turbine or stationary internal combustion engine 36264
designed to generate electricity shall be assessed a fee 36265
established in division (F)(2) of this section. 36266

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 36267
any person issued a permit to install pursuant to rules adopted 36268
under division (F) of section 3704.03 of the Revised Code shall 36269
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 36270
for a process used in any of the following industries, as 36271
identified by the applicable two-digit, three-digit, or four-digit 36272
standard industrial classification code according to the Standard 36273
Industrial Classification Manual published by the United States 36274
office of management and budget in the executive office of the 36275
president, ~~1972~~ 1987, as revised: 36276

1211 Bituminous coal and lignite mining;		36277
1213 Bituminous coal and lignite mining services;		36278
1411 Dimension stone;		36279
1422 Crushed and broken limestone;		36280
1427 Crushed and broken stone, not elsewhere classified;		36281
1442 Construction sand and gravel;		36282
1446 Industrial sand; Major group 10, metal mining;		36283
<u>Major group 12, coal mining;</u>		36284
<u>Major group 14, mining and quarrying of nonmetallic minerals;</u>		36285
<u>Industry group 204, grain mill products;</u>		36286
<u>2873 Nitrogen fertilizers;</u>		36287
<u>2874 Phosphatic fertilizers;</u>		36288
3281 Cut stone and stone products;		36289
3295 Minerals and earth, ground or otherwise treated;		36290
<u>4221 Grain elevators (storage only);</u>		36291
<u>5159 Farm related raw materials;</u>		36292
<u>5261 Retail nurseries and lawn and garden supply stores.</u>		36293
(c) The fees set forth in the following schedule apply to the		36294
issuance of a permit to install pursuant to rules adopted under		36295
division (F) of section 3704.03 of the Revised Code for a process		36296
identified in division (F) (3) (4)(b) of this section:		36297
Process weight rate (pounds per	Permit to install	36298
hour)		
0 to 10,000	\$ 200	36299
10,001 to 50,000	400	36300
50,001 to 100,000	500	36301
100,001 to 200,000	600	36302

200,001 to 400,000	750	36303
400,001 or more	900	36304
(5) Storage tanks		36305
Gallons (maximum useful capacity)	Permit to install	36306
0 to 20,000	\$ 100	36307
20,001 to 40,000	150	36308
40,001 to 100,000	250	36309
100,001 to 500,000	400	36310
500,001 or greater	750	36311
(6) Gasoline/fuel dispensing facilities		36312
For each gasoline/fuel		36313
dispensing facility (includes all	Permit to install	36314
units at the facility)	\$ 100	36315
(7) Dry cleaning facilities		36316
For each dry cleaning		36317
facility (includes all units	Permit to install	36318
at the facility)	\$ 100	36319
(8) Registration status		36320
For each source covered	Permit to install	36321
by registration status	\$ 75	36322
(G) An owner or operator who is responsible for an asbestos		36323
demolition or renovation project pursuant to rules adopted under		36324
section 3704.03 of the Revised Code shall pay the fees set forth		36325
in the following schedule:		36326
Action	Fee	36327
Each notification	\$75	36328
Asbestos removal	\$3/unit	36329
Asbestos cleanup	\$4/cubic yard	36330
For purposes of this division, "unit" means any combination of		36331
linear feet or square feet equal to fifty.		36332
(H) A person who is issued an extension of time for a permit		36333

to install an air contaminant source pursuant to rules adopted 36334
under division (F) of section 3704.03 of the Revised Code shall 36335
pay a fee equal to one-half the fee originally assessed for the 36336
permit to install under this section, except that the fee for such 36337
an extension shall not exceed two hundred dollars. 36338

(I) A person who is issued a modification to a permit to 36339
install an air contaminant source pursuant to rules adopted under 36340
section 3704.03 of the Revised Code shall pay a fee equal to 36341
one-half of the fee that would be assessed under this section to 36342
obtain a permit to install the source. The fee assessed by this 36343
division only applies to modifications that are initiated by the 36344
owner or operator of the source and shall not exceed two thousand 36345
dollars. 36346

(J) Notwithstanding division (B) or (F) of this section, a 36347
person who applies for or obtains a permit to install pursuant to 36348
rules adopted under division (F) of section 3704.03 of the Revised 36349
Code after the date actual construction of the source began shall 36350
pay a fee for the permit to install that is equal to twice the fee 36351
that otherwise would be assessed under the applicable division 36352
unless the applicant received authorization to begin construction 36353
under division (W) of section 3704.03 of the Revised Code. This 36354
division only applies to sources for which actual construction of 36355
the source begins on or after July 1, 1993. The imposition or 36356
payment of the fee established in this division does not preclude 36357
the director from taking any administrative or judicial 36358
enforcement action under this chapter, Chapter 3704., 3714., 36359
3734., or 6111. of the Revised Code, or a rule adopted under any 36360
of them, in connection with a violation of rules adopted under 36361
division (F) of section 3704.03 of the Revised Code. 36362

As used in this division, "actual construction of the source" 36363
means the initiation of physical on-site construction activities 36364
in connection with improvements to the source that are permanent 36365

in nature, including, without limitation, the installation of 36366
building supports and foundations and the laying of underground 36367
pipework. 36368

(K) Fifty cents per ton of each fee assessed under division 36369
(C) of this section on actual emissions from a source and received 36370
by the environmental protection agency pursuant to that division 36371
shall be deposited into the state treasury to the credit of the 36372
small business assistance fund created in section 3706.19 of the 36373
Revised Code. The remainder of the moneys received by the division 36374
pursuant to that division and moneys received by the agency 36375
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 36376
section shall be deposited in the state treasury to the credit of 36377
the clean air fund created in section 3704.035 of the Revised 36378
Code. 36379

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 36380
or (c) of this section, a person issued a water discharge permit 36381
or renewal of a water discharge permit pursuant to Chapter 6111. 36382
of the Revised Code shall pay a fee based on each point source to 36383
which the issuance is applicable in accordance with the following 36384
schedule: 36385

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	36387
1,001 to 5000	100	36388
5,001 to 50,000	200	36389
50,001 to 100,000	300	36390
100,001 to 300,000	525	36391
over 300,000	750	36392

(b) Notwithstanding the fee schedule specified in division 36393
(L)(1)(a) of this section, the fee for a water discharge permit 36394
that is applicable to coal mining operations regulated under 36395
Chapter 1513. of the Revised Code shall be two hundred fifty 36396
dollars per mine. 36397

(c) Notwithstanding the fee schedule specified in division 36398
(L)(1)(a) of this section, the fee for a water discharge permit 36399
for a public discharger identified by I in the third character of 36400
the permittee's NPDES permit number shall not exceed seven hundred 36401
fifty dollars. 36402

(2) A person applying for a plan approval for a wastewater 36403
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 36404
of the Revised Code shall pay a fee of one hundred dollars plus 36405
sixty-five one-hundredths of one per cent of the estimated project 36406
cost through June 30, ~~2006~~ 2008, and one hundred dollars plus 36407
two-tenths of one per cent of the estimated project cost on and 36408
after July 1, ~~2006~~ 2008, except that the total fee shall not 36409
exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and 36410
five thousand dollars on and after July 1, ~~2006~~ 2008. The fee 36411
shall be paid at the time the application is submitted. 36412

(3) A person issued a modification of a water discharge 36413
permit shall pay a fee equal to one-half the fee that otherwise 36414
would be charged for a water discharge permit, except that the fee 36415
for the modification shall not exceed four hundred dollars. 36416

(4) A person who has entered into an agreement with the 36417
director under section 6111.14 of the Revised Code shall pay an 36418
administrative service fee for each plan submitted under that 36419
section for approval that shall not exceed the minimum amount 36420
necessary to pay administrative costs directly attributable to 36421
processing plan approvals. The director annually shall calculate 36422
the fee and shall notify all persons who have entered into 36423
agreements under that section, or who have applied for agreements, 36424
of the amount of the fee. 36425

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 36426
30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued 36427
pursuant to Chapter 6111. of the Revised Code with an average 36428

daily discharge flow of five thousand gallons or more shall pay a 36429
nonrefundable annual discharge fee. Any person who fails to pay 36430
the fee at that time shall pay an additional amount that equals 36431
ten per cent of the required annual discharge fee. 36432

(ii) The billing year for the annual discharge fee 36433
established in division (L)(5)(a)(i) of this section shall consist 36434
of a twelve-month period beginning on the first day of January of 36435
the year preceding the date when the annual discharge fee is due. 36436
In the case of an existing source that permanently ceases to 36437
discharge during a billing year, the director shall reduce the 36438
annual discharge fee, including the surcharge applicable to 36439
certain industrial facilities pursuant to division (L)(5)(c) of 36440
this section, by one-twelfth for each full month during the 36441
billing year that the source was not discharging, but only if the 36442
person holding the NPDES discharge permit for the source notifies 36443
the director in writing, not later than the first day of October 36444
of the billing year, of the circumstances causing the cessation of 36445
discharge. 36446

(iii) The annual discharge fee established in division 36447
(L)(5)(a)(i) of this section, except for the surcharge applicable 36448
to certain industrial facilities pursuant to division (L)(5)(c) of 36449
this section, shall be based upon the average daily discharge flow 36450
in gallons per day calculated using first day of May through 36451
thirty-first day of October flow data for the period two years 36452
prior to the date on which the fee is due. In the case of NPDES 36453
discharge permits for new sources, the fee shall be calculated 36454
using the average daily design flow of the facility until actual 36455
average daily discharge flow values are available for the time 36456
period specified in division (L)(5)(a)(iii) of this section. The 36457
annual discharge fee may be prorated for a new source as described 36458
in division (L)(5)(a)(ii) of this section. 36459

(b) An NPDES permit holder that is a public discharger shall 36460

pay the fee specified in the following schedule:		36461
Average daily	Fee due by	36462
discharge flow	January 30,	36463
	2004 <u>2006</u> , and	36464
	January 30, 2005	36465
	<u>2007</u>	
5,000 to 49,999	\$ 200	36466
50,000 to 100,000	500	36467
100,001 to 250,000	1,050	36468
250,001 to 1,000,000	2,600	36469
1,000,001 to 5,000,000	5,200	36470
5,000,001 to 10,000,000	10,350	36471
10,000,001 to 20,000,000	15,550	36472
20,000,001 to 50,000,000	25,900	36473
50,000,001 to 100,000,000	41,400	36474
100,000,001 or more	62,100	36475
Public dischargers owning or operating two or more publicly		36476
owned treatment works serving the same political subdivision, as		36477
"treatment works" is defined in section 6111.01 of the Revised		36478
Code, and that serve exclusively political subdivisions having a		36479
population of fewer than one hundred thousand shall pay an annual		36480
discharge fee under division (L)(5)(b) of this section that is		36481
based on the combined average daily discharge flow of the		36482
treatment works.		36483
(c) An NPDES permit holder that is an industrial discharger,		36484
other than a coal mining operator identified by P in the third		36485
character of the permittee's NPDES permit number, shall pay the		36486
fee specified in the following schedule:		36487
Average daily	Fee due by	36488
discharge flow	January 30,	36489
	2004 <u>2006</u> , and	36490
	January 30, 2005	36491

	<u>2007</u>	
5,000 to 49,999	\$ 250	36492
50,000 to 250,000	1,200	36493
250,001 to 1,000,000	2,950	36494
1,000,001 to 5,000,000	5,850	36495
5,000,001 to 10,000,000	8,800	36496
10,000,001 to 20,000,000	11,700	36497
20,000,001 to 100,000,000	14,050	36498
100,000,001 to 250,000,000	16,400	36499
250,000,001 or more	18,700	36500

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water

discharge fee of one hundred dollars per square mile of area 36523
permitted. The fee shall not exceed ten thousand dollars and shall 36524
be payable on or before January 30, 2004, and the thirtieth day of 36525
January of each year thereafter. Any person who fails to pay the 36526
fee on the date specified in division (L)(6) of this section shall 36527
pay an additional amount per year equal to ten per cent of the 36528
annual fee that is unpaid. 36529

(7) The director shall transmit all moneys collected under 36530
division (L) of this section to the treasurer of state for deposit 36531
into the state treasury to the credit of the surface water 36532
protection fund created in section 6111.038 of the Revised Code. 36533

(8) As used in division (L) of this section: 36534

(a) "NPDES" means the federally approved national pollutant 36535
discharge elimination system program for issuing, modifying, 36536
revoking, reissuing, terminating, monitoring, and enforcing 36537
permits and imposing and enforcing pretreatment requirements under 36538
Chapter 6111. of the Revised Code and rules adopted under it. 36539

(b) "Public discharger" means any holder of an NPDES permit 36540
identified by P in the second character of the NPDES permit number 36541
assigned by the director. 36542

(c) "Industrial discharger" means any holder of an NPDES 36543
permit identified by I in the second character of the NPDES permit 36544
number assigned by the director. 36545

(d) "Major discharger" means any holder of an NPDES permit 36546
classified as major by the regional administrator of the United 36547
States environmental protection agency in conjunction with the 36548
director. 36549

(M) Through June 30, ~~2006~~ 2008, a person applying for a 36550
license or license renewal to operate a public water system under 36551
section 6109.21 of the Revised Code shall pay the appropriate fee 36552

established under this division at the time of application to the 36553
director. Any person who fails to pay the fee at that time shall 36554
pay an additional amount that equals ten per cent of the required 36555
fee. The director shall transmit all moneys collected under this 36556
division to the treasurer of state for deposit into the drinking 36557
water protection fund created in section 6109.30 of the Revised 36558
Code. 36559

Except as provided in division (M)(4) of this section, fees 36560
required under this division shall be calculated and paid in 36561
accordance with the following schedule: 36562

(1) For the initial license required under division (A)(1) of 36563
section 6109.21 of the Revised Code for any public water system 36564
that is a community water system as defined in section 6109.01 of 36565
the Revised Code, and for each license renewal required for such a 36566
system prior to January 31, ~~2006~~ 2008, the fee is: 36567

Number of service connections	Fee amount	
Not more than 49	\$ 112	36568
50 to 99	176	36569
		36570
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	36571
2,500 to 4,999	1.48	36572
5,000 to 7,499	1.42	36573
7,500 to 9,999	1.34	36574
10,000 to 14,999	1.16	36575
15,000 to 24,999	1.10	36576
25,000 to 49,999	1.04	36577
50,000 to 99,999	.92	36578
100,000 to 149,999	.86	36579
150,000 to 199,999	.80	36580
200,000 or more	.76	36581

A public water system may determine how it will pay the total 36582
amount of the fee calculated under division (M)(1) of this 36583
36584

section, including the assessment of additional user fees that may be assessed on a volumetric basis. 36585
36586

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. 36587
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(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, ~~2006~~ 2008, the fee is: 36591
36592
36593
36594
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Population served	Fee amount	
Fewer than 150	\$ 112	36596 36597
150 to 299	176	36598
300 to 749	384	36599
750 to 1,499	628	36600
1,500 to 2,999	1,268	36601
3,000 to 7,499	2,816	36602
7,500 to 14,999	5,510	36603
15,000 to 22,499	9,048	36604
22,500 to 29,999	12,430	36605
30,000 or more	16,820	36606

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. 36607
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(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient 36613
36614
36615

population, and for each license renewal required for such a 36616
system prior to January 31, ~~2006~~ 2008, the fee is: 36617

Number of wells supplying system	Fee amount	
1	\$112	36618
2	112	36619
3	176	36620
4	278	36621
5	568	36622
System designated as using a		36623
surface water source	792	36624

As used in division (M)(3) of this section, "number of wells 36625
supplying system" means those wells that are physically connected 36626
to the plumbing system serving the public water system. 36627
36628

(4) A public water system designated as using a surface water 36629
source shall pay a fee of seven hundred ninety-two dollars or the 36630
amount calculated under division (M)(1) or (2) of this section, 36631
whichever is greater. 36632

(N)(1) A person applying for a plan approval for a public 36633
water supply system under section 6109.07 of the Revised Code 36634
shall pay a fee of one hundred fifty dollars plus thirty-five 36635
hundredths of one per cent of the estimated project cost, except 36636
that the total fee shall not exceed twenty thousand dollars 36637
through June 30, ~~2006~~ 2008, and fifteen thousand dollars on and 36638
after July 1, ~~2006~~ 2008. The fee shall be paid at the time the 36639
application is submitted. 36640

(2) A person who has entered into an agreement with the 36641
director under division (A)(2) of section 6109.07 of the Revised 36642
Code shall pay an administrative service fee for each plan 36643
submitted under that section for approval that shall not exceed 36644
the minimum amount necessary to pay administrative costs directly 36645
attributable to processing plan approvals. The director annually 36646

shall calculate the fee and shall notify all persons that have
entered into agreements under that division, or who have applied
for agreements, of the amount of the fee.

(3) Through June 30, ~~2006~~ 2008, the following fee, on a per
survey basis, shall be charged any person for services rendered by
the state in the evaluation of laboratories and laboratory
personnel for compliance with accepted analytical techniques and
procedures established pursuant to Chapter 6109. of the Revised
Code for determining the qualitative characteristics of water:

microbiological		36656
MMO-MUG	\$2,000	36657
MF	2,100	36658
MMO-MUG and MF	2,550	36659
organic chemical	5,400	36660
trace metals	5,400	36661
standard chemistry	2,800	36662
limited chemistry	1,550	36663

On and after July 1, ~~2006~~ 2008, the following fee, on a per
survey basis, shall be charged any such person:

microbiological	\$ 1,650	36666
organic chemicals	3,500	36667
trace metals	3,500	36668
standard chemistry	1,800	36669
limited chemistry	1,000	36670

The fee for those services shall be paid at the time the request
for the survey is made. Through June 30, ~~2006~~ 2008, 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: 36678

(a) "MF" means microfiltration. 36679

(b) "MMO" means minimal medium ONPG. 36680

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 36681

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 36682

The director shall transmit all moneys collected under this 36683
division to the treasurer of state for deposit into the drinking 36684
water protection fund created in section 6109.30 of the Revised 36685
Code. 36686

~~(O) Any person applying to the director for examination for 36687
certification as an operator of a water supply system or 36688
wastewater system under Chapter 6109. or 6111. of the Revised 36689
Code, at the time the application is submitted, shall pay an 36690
application fee of twenty five dollars through November 30, 2003. 36691
Upon approval from the director that the applicant is eligible to 36692
take the examination therefor, the applicant shall pay a fee in 36693
accordance with the following schedule through November 30, 2003:~~ 36694

Class I operator	\$45	36695
Class II operator	55	36696
Class III operator	65	36697
Class IV operator	75	36698

~~On and after December 1, 2003, any person applying to the 36699
director for examination for certification as an operator of a 36700
water supply system or wastewater system under Chapter 6109. or 36701
6111. of the Revised Code, at the time the application is 36702
submitted, shall pay an application fee of forty-five dollars 36703
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 36704
after December 1, ~~2006~~ 2008. Upon approval from the director that 36705
the applicant is eligible to take the examination therefor, the 36706
applicant shall pay a fee in accordance with the following 36707~~

schedule through November 30, 2006 <u>2008</u> :		36708
Class A operator	\$35	36709
Class I operator	60	36710
Class II operator	75	36711
Class III operator	85	36712
Class IV operator	100	36713
On and after December 1, 2006 <u>2008</u> , the applicant shall pay a		36714
fee in accordance with the following schedule:		36715
Class A operator	\$25	36716
Class I operator	\$45	36717
Class II operator	55	36718
Class III operator	65	36719
Class IV operator	75	36720
A person shall pay a biennial certification renewal fee for		36721
each applicable class of certification in accordance with the		36722
following schedule:		36723
Class A operator	\$25	36724
Class I operator	35	36725
Class II operator	45	36726
Class III operator	55	36727
Class IV operator	65	36728
If a certification renewal fee is received by the director		36729
more than thirty days, but not more than one year after the		36730
expiration date of the certification, the person shall pay a		36731
certification renewal fee in accordance with the following		36732
schedule:		36733
Class A operator	\$45	36734
Class I operator	55	36735
Class II operator	65	36736
Class III operator	75	36737
Class IV operator	85	36738
A person who requests a replacement certificate shall pay a		36739

fee of twenty-five dollars at the time the request is made. 36740

The director shall transmit all moneys collected under this 36741
division to the treasurer of state for deposit into the drinking 36742
water protection fund created in section 6109.30 of the Revised 36743
Code. 36744

(P) Any person submitting an application for an industrial 36745
water pollution control certificate under section 6111.31 of the 36746
Revised Code, as that section existed before its repeal by H.B. 95 36747
of the 125th general assembly, shall pay a nonrefundable fee of 36748
five hundred dollars at the time the application is submitted. The 36749
director shall transmit all moneys collected under this division 36750
to the treasurer of state for deposit into the surface water 36751
protection fund created in section 6111.038 of the Revised Code. A 36752
person paying a certificate fee under this division shall not pay 36753
an application fee under division (S)(1) of this section. On and 36754
after ~~the effective date of this amendment~~ June 26, 2003, persons 36755
shall file such applications and pay the fee as required under 36756
sections 5709.20 to 5709.27 of the Revised Code, and proceeds from 36757
the fee shall be credited as provided in section 5709.212 of the 36758
Revised Code. 36759

(Q) Except as otherwise provided in division (R) of this 36760
section, a person issued a permit by the director for a new solid 36761
waste disposal facility other than an incineration or composting 36762
facility, a new infectious waste treatment facility other than an 36763
incineration facility, or a modification of such an existing 36764
facility that includes an increase in the total disposal or 36765
treatment capacity of the facility pursuant to Chapter 3734. of 36766
the Revised Code shall pay a fee of ten dollars per thousand cubic 36767
yards of disposal or treatment capacity, or one thousand dollars, 36768
whichever is greater, except that the total fee for any such 36769
permit shall not exceed eighty thousand dollars. A person issued a 36770
modification of a permit for a solid waste disposal facility or an 36771

infectious waste treatment facility that does not involve an
increase in the total disposal or treatment capacity of the
facility shall pay a fee of one thousand dollars. A person issued
a permit to install a new, or modify an existing, solid waste
transfer facility under that chapter shall pay a fee of two
thousand five hundred dollars. A person issued a permit to install
a new or to modify an existing solid waste incineration or
composting facility, or an existing infectious waste treatment
facility using incineration as its principal method of treatment,
under that chapter shall pay a fee of one thousand dollars. The
increases in the permit fees under this division resulting from
the amendments made by Amended Substitute House Bill 592 of the
117th general assembly do not apply to any person who submitted an
application for a permit to install a new, or modify an existing,
solid waste disposal facility under that chapter prior to
September 1, 1987; any such person shall pay the permit fee
established in this division as it existed prior to June 24, 1988.
In addition to the applicable permit fee under this division, a
person issued a permit to install or modify a solid waste facility
or an infectious waste treatment facility under that chapter who
fails to pay the permit fee to the director in compliance with
division (V) of this section shall pay an additional ten per cent
of the amount of the fee for each week that the permit fee is
late.

Permit and late payment fees paid to the director under this
division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap
tire collection facility under section 3734.75 of the Revised Code
shall pay a fee of two hundred dollars, except that if the
facility is owned or operated by a motor vehicle salvage dealer
licensed under Chapter 4738. of the Revised Code, the person shall
pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. 36835
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(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted. 36839
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Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2006~~ 2008. Through June 30, ~~2006~~ 2008, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application. 36848
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In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any 36860
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person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an

application for a registration certificate for a scrap tire 36898
collection or storage facility submitted under section 3734.75 or 36899
3734.76 of the Revised Code, as applicable, if the owner or 36900
operator of the facility or proposed facility is a motor vehicle 36901
salvage dealer licensed under Chapter 4738. of the Revised Code. 36902

(T) The director may adopt, amend, and rescind rules in 36903
accordance with Chapter 119. of the Revised Code that do all of 36904
the following: 36905

(1) Prescribe fees to be paid by applicants for and holders 36906
of any license, permit, variance, plan approval, or certification 36907
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 36908
the Revised Code that are not specifically established in this 36909
section. The fees shall be designed to defray the cost of 36910
processing, issuing, revoking, modifying, denying, and enforcing 36911
the licenses, permits, variances, plan approvals, and 36912
certifications. 36913

The director shall transmit all moneys collected under rules 36914
adopted under division (T)(1) of this section pursuant to Chapter 36915
6109. of the Revised Code to the treasurer of state for deposit 36916
into the drinking water protection fund created in section 6109.30 36917
of the Revised Code. 36918

The director shall transmit all moneys collected under rules 36919
adopted under division (T)(1) of this section pursuant to Chapter 36920
6111. of the Revised Code to the treasurer of state for deposit 36921
into the surface water protection fund created in section 6111.038 36922
of the Revised Code. 36923

(2) Exempt the state and political subdivisions thereof, 36924
including education facilities or medical facilities owned by the 36925
state or a political subdivision, or any person exempted from 36926
taxation by section 5709.07 or 5709.12 of the Revised Code, from 36927
any fee required by this section; 36928

(3) Provide for the waiver of any fee, or any part thereof, 36929
otherwise required by this section whenever the director 36930
determines that the imposition of the fee would constitute an 36931
unreasonable cost of doing business for any applicant, class of 36932
applicants, or other person subject to the fee; 36933

(4) Prescribe measures that the director considers necessary 36934
to carry out this section. 36935

(U) When the director reasonably demonstrates that the direct 36936
cost to the state associated with the issuance of a permit to 36937
install, license, variance, plan approval, or certification 36938
exceeds the fee for the issuance or review specified by this 36939
section, the director may condition the issuance or review on the 36940
payment by the person receiving the issuance or review of, in 36941
addition to the fee specified by this section, the amount, or any 36942
portion thereof, in excess of the fee specified under this 36943
section. The director shall not so condition issuances for which 36944
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 36945
section. 36946

(V) Except as provided in divisions (L), (M), and (P) of this 36947
section or unless otherwise prescribed by a rule of the director 36948
adopted pursuant to Chapter 119. of the Revised Code, all fees 36949
required by this section are payable within thirty days after the 36950
issuance of an invoice for the fee by the director or the 36951
effective date of the issuance of the license, permit, variance, 36952
plan approval, or certification. If payment is late, the person 36953
responsible for payment of the fee shall pay an additional ten per 36954
cent of the amount due for each month that it is late. 36955

(W) As used in this section, "fuel-burning equipment," 36956
"fuel-burning equipment input capacity," "incinerator," 36957
"incinerator input capacity," "process," "process weight rate," 36958
"storage tank," "gasoline dispensing facility," "dry cleaning 36959

facility," "design flow discharge," and "new source treatment
works" have the meanings ascribed to those terms by applicable
rules or standards adopted by the director under Chapter 3704. or
6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I),
and (J) of this section, and in any other provision of this
section pertaining to fees paid pursuant to Chapter 3704. of the
Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title
V permit" have the same meanings as in section 3704.01 of the
Revised Code.

(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:

(a) Preparing and adopting, if applicable, generally
applicable rules or guidance regarding the permit program or its
implementation or enforcement;

(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;

(c) Administering the permit program, including the
supporting and tracking of permit applications, compliance
certification, and related data entry;

(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;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of

exceptional quality sludge shall not be required to pay the annual
sludge fee for treatment or disposal in this state of exceptional
quality sludge generated outside of this state and contained in
bags or other containers not greater than one hundred pounds in
capacity.

A thirty-five per cent reduction for exceptional quality
sludge applies to the maximum annual fees established under
division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to
another sewage sludge facility in this state for further treatment
prior to disposal in this state shall not be required to pay the
annual sludge fee for the tons of sewage sludge that have been
transferred. In such a case, the sewage sludge facility that
disposes of the sewage sludge shall pay the annual sludge fee.
However, the facility transferring the sewage sludge shall pay the
one-hundred-dollar minimum fee required under division (Y)(2)(a)
of this section.

In the case of a sewage sludge facility that treats sewage
sludge in this state and transfers it out of this state to another
entity for disposal, the sewage sludge facility in this state
shall be required to pay the annual sludge fee for the tons of
sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge
resulting from an average daily discharge flow of less than five
thousand gallons per day is not subject to the fees assessed under
division (Y) of this section.

(3) No sewage sludge facility required to pay the annual
sludge fee shall be required to pay more than the maximum annual
fee for each disposal method that the sewage sludge facility uses.
The maximum annual fee does not include the additional amount that
may be charged under division (Y)(5) of this section for late

payment of the annual sludge fee. The maximum annual fee for the 37052
following methods of disposal of sewage sludge is as follows: 37053

(a) Incineration: five thousand dollars; 37054

(b) Preexisting land reclamation project or disposal in a 37055
landfill: five thousand dollars; 37056

(c) Land application, land reclamation, surface disposal, or 37057
any other disposal method not specified in division (Y)(3)(a) or 37058
(b) of this section: twenty thousand dollars. 37059

(4)(a) In the case of an entity that generates sewage sludge 37060
or a sewage sludge facility that treats sewage sludge and 37061
transfers the sewage sludge to an incineration facility for 37062
disposal, the incineration facility, and not the entity generating 37063
the sewage sludge or the sewage sludge facility treating the 37064
sewage sludge, shall pay the annual sludge fee for the tons of 37065
sewage sludge that are transferred. However, the entity or 37066
facility generating or treating the sewage sludge shall pay the 37067
one-hundred-dollar minimum fee required under division (Y)(2)(a) 37068
of this section. 37069

(b) In the case of an entity that generates sewage sludge and 37070
transfers the sewage sludge to a landfill for disposal or to a 37071
sewage sludge facility for land reclamation or surface disposal, 37072
the entity generating the sewage sludge, and not the landfill or 37073
sewage sludge facility, shall pay the annual sludge fee for the 37074
tons of sewage sludge that are transferred. 37075

(5) Not later than the first day of April of the calendar 37076
year following March 17, 2000, and each first day of April 37077
thereafter, the director shall issue invoices to persons who are 37078
required to pay the annual sludge fee. The invoice shall identify 37079
the nature and amount of the annual sludge fee assessed and state 37080
the first day of May as the deadline for receipt by the director 37081
of objections regarding the amount of the fee and the first day of 37082

July as the deadline for payment of the fee. 37083

Not later than the first day of May following receipt of an 37084
invoice, a person required to pay the annual sludge fee may submit 37085
objections to the director concerning the accuracy of information 37086
regarding the number of dry tons of sewage sludge used to 37087
calculate the amount of the annual sludge fee or regarding whether 37088
the sewage sludge qualifies for the exceptional quality sludge 37089
discount established in division (Y)(2)(b) of this section. The 37090
director may consider the objections and adjust the amount of the 37091
fee to ensure that it is accurate. 37092

If the director does not adjust the amount of the annual 37093
sludge fee in response to a person's objections, the person may 37094
appeal the director's determination in accordance with Chapter 37095
119. of the Revised Code. 37096

Not later than the first day of June, the director shall 37097
notify the objecting person regarding whether the director has 37098
found the objections to be valid and the reasons for the finding. 37099
If the director finds the objections to be valid and adjusts the 37100
amount of the annual sludge fee accordingly, the director shall 37101
issue with the notification a new invoice to the person 37102
identifying the amount of the annual sludge fee assessed and 37103
stating the first day of July as the deadline for payment. 37104

Not later than the first day of July, any person who is 37105
required to do so shall pay the annual sludge fee. Any person who 37106
is required to pay the fee, but who fails to do so on or before 37107
that date shall pay an additional amount that equals ten per cent 37108
of the required annual sludge fee. 37109

(6) The director shall transmit all moneys collected under 37110
division (Y) of this section to the treasurer of state for deposit 37111
into the surface water protection fund created in section 6111.038 37112
of the Revised Code. The moneys shall be used to defray the costs 37113

of administering and enforcing provisions in Chapter 6111. of the
Revised Code and rules adopted under it that govern the use,
storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years
thereafter, the director shall review the total amount of moneys
generated by the annual sludge fees to determine if that amount
exceeded six hundred thousand dollars in either of the two
preceding fiscal years. If the total amount of moneys in the fund
exceeded six hundred thousand dollars in either fiscal year, the
director, after review of the fee structure and consultation with
affected persons, shall issue an order reducing the amount of the
fees levied under division (Y) of this section so that the
estimated amount of moneys resulting from the fees will not exceed
six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this
section and after the fees have been reduced, the director
determines that the total amount of moneys collected and
accumulated is less than six hundred thousand dollars, the
director, after review of the fee structure and consultation with
affected persons, may issue an order increasing the amount of the
fees levied under division (Y) of this section so that the
estimated amount of moneys resulting from the fees will be
approximately six hundred thousand dollars. Fees shall never be
increased to an amount exceeding the amount specified in division
(Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the
director may issue an order under division (Y)(7) of this section
without the necessity to hold an adjudicatory hearing in
connection with the order. The issuance of an order under this
division is not an act or action for purposes of section 3745.04
of the Revised Code.

(8) As used in division (Y) of this section:	37145
(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.	37146 37147
(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.	37148 37149 37150 37151 37152 37153 37154 37155 37156 37157
(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:	37158 37159
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	37160 37161
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	37162 37163
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	37164 37165
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	37166 37167
(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.	37168 37169 37170
(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.	37171 37172 37173
(f) "Land application" means the spraying or spreading of	37174

sewage sludge onto the land surface, the injection of sewage 37175
sludge below the land surface, or the incorporation of sewage 37176
sludge into the soil for the purposes of conditioning the soil or 37177
fertilizing crops or vegetation grown in the soil. 37178

(g) "Land reclamation" means the returning of disturbed land 37179
to productive use. 37180

(h) "Surface disposal" means the placement of sludge on an 37181
area of land for disposal, including, but not limited to, 37182
monofills, surface impoundments, lagoons, waste piles, or 37183
dedicated disposal sites. 37184

(i) "Incinerator" means an entity that disposes of sewage 37185
sludge through the combustion of organic matter and inorganic 37186
matter in sewage sludge by high temperatures in an enclosed 37187
device. 37188

(j) "Incineration facility" includes all incinerators owned 37189
or operated by the same entity and located on a contiguous tract 37190
of land. Areas of land are considered to be contiguous even if 37191
they are separated by a public road or highway. 37192

(k) "Annual sludge fee" means the fee assessed under division 37193
(Y)(1) of this section. 37194

(l) "Landfill" means a sanitary landfill facility, as defined 37195
in rules adopted under section 3734.02 of the Revised Code, that 37196
is licensed under section 3734.05 of the Revised Code. 37197

(m) "Preexisting land reclamation project" means a 37198
property-specific land reclamation project that has been in 37199
continuous operation for not less than five years pursuant to 37200
approval of the activity by the director and includes the 37201
implementation of a community outreach program concerning the 37202
activity. 37203

Sec. 3745.114. (A) A person that applies for a section 401 37204

water quality certification under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application plus any of the following fees, as applicable: 37205
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(1) If the water resource to be impacted is a wetland, a review fee of five hundred dollars per acre of wetland to be impacted; 37209
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(2) If the water resource to be impacted is a stream, a review fee of ten dollars per linear foot of stream to be impacted; 37212
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37214

(3) If the water resource to be impacted is a lake, a review fee of three dollars per cubic yard of dredged or fill material to be moved. 37215
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(B) The total fee to be paid under this section shall not exceed twenty-five thousand dollars per application. However, if the applicant is a county, township, or municipal corporation in this state, the total fee to be paid shall not exceed five thousand dollars per application. 37218
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(C) All money collected under this section shall be transmitted to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code. 37223
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(D) The fees established under this section do not apply to any state agency as defined in section 119.01 of the Revised Code. 37227
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(E) The fees established under this section do not apply to projects that are authorized by the environmental protection agency's general certifications of nationwide permits or general permits issued by the United States army corps of engineers. As used in this division, "general permit" and "nationwide permit" have the same meanings as in rules adopted under Chapter 6111. of 37229
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<u>the Revised Code.</u>	37235
<u>(F) The fees established under this section do not apply to</u>	37236
<u>coal mining and reclamation operations that are authorized under</u>	37237
<u>Chapter 1513. of the Revised Code.</u>	37238
Sec. 3745.12. (A) There is hereby created in the state	37239
treasury the immediate removal fund, which shall be administered	37240
by the director of environmental protection. The fund may be used	37241
for both of the following purposes:	37242
(1) To pay costs incurred by the environmental protection	37243
agency in investigating, mitigating, minimizing, removing, or	37244
abating any unauthorized spill, release, or discharge of material	37245
into or upon the environment that requires emergency action to	37246
protect the public health or safety or the environment;	37247
(2) Conducting remedial actions under section 3752.13 of the	37248
Revised Code.	37249
(B) Any person responsible for causing or allowing the	37250
unauthorized spill, release, or discharge is liable to the	37251
director for the costs incurred by the agency regardless of	37252
whether those costs were paid out of the fund created under	37253
division (A) of this section or any other fund of the agency. Upon	37254
the request of the director, the attorney general shall bring a	37255
civil action against the responsible person to recover those	37256
costs. Moneys recovered under this division shall be paid into the	37257
<u>state treasury to the credit of the immediate removal fund, except</u>	37258
<u>that moneys recovered for costs paid from the hazardous waste</u>	37259
<u>clean-up fund created in section 3734.28 of the Revised Code shall</u>	37260
<u>be credited to the hazardous waste clean-up fund.</u>	37261
Sec. 3746.04. Within one year after September 28, 1994, the	37262
director of environmental protection, in accordance with Chapter	37263
119. of the Revised Code and with the advice of the	37264

multidisciplinary council appointed under section 3746.03 of the Revised Code, shall adopt, and subsequently may amend, suspend, or rescind, rules that do both of the following:

(A) Revise the rules adopted under Chapters 3704., 3714., 3734., 6109., and 6111. of the Revised Code to incorporate the provisions necessary to conform those rules to the requirements of this chapter. The amended rules adopted under this division also shall establish response times for all submittals to the environmental protection agency required under this chapter or rules adopted under it.

(B) Establish requirements and procedures that are reasonably necessary for the implementation and administration of this chapter, including, without limitation, all of the following:

(1) Appropriate generic numerical clean-up standards for the treatment or removal of soils, sediments, and water media for hazardous substances and petroleum. The rules shall establish separate generic numerical clean-up standards based upon the intended use of properties after the completion of voluntary actions, including industrial, commercial, and residential uses and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

(a) Scientific information, including, without limitation, toxicological information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;

(b) Climatic factors;	37296
(c) Human activity patterns;	37297
(d) Current statistical techniques;	37298
(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.	37299 37300
The generic numerical clean-up standards established <u>in the rules adopted</u> under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.	37301 37302 37303 37304 37305 37306 37307 37308 37309 37310 37311 37312 37313 37314
In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.	37315 37316 37317 37318 37319
The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.	37320 37321 37322 37323
(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate	37324 37325

that the remedy evaluated in a risk assessment results in 37326
protection of public health and safety and the environment instead 37327
of complying with the generic numerical clean-up standards 37328
established in the rules adopted under division (B)(1) of this 37329
section. The risk assessment procedures shall describe a 37330
methodology to establish, on a property-specific basis, allowable 37331
levels of contamination to remain at a property to ensure 37332
protection of public health and safety and the environment on the 37333
property and off the property when the contamination is emanating 37334
off the property, taking into account all of the following: 37335

(i) The implementation of treatment, storage, or disposal, or 37336
a combination thereof, of hazardous substances or petroleum; 37337

(ii) The existence of institutional controls or activity and 37338
use limitations that eliminate or mitigate exposure to hazardous 37339
substances or petroleum through the restriction of access to 37340
hazardous substances or petroleum; 37341

(iii) The existence of engineering controls that eliminate or 37342
mitigate exposure to hazardous substances or petroleum through 37343
containment of, control of, or restrictions of access to hazardous 37344
substances or petroleum, including, without limitation, fences, 37345
cap systems, cover systems, and landscaping. 37346

(b) The risk assessment procedures and levels of acceptable 37347
risk set forth in the rules adopted under division (B)(2) of this 37348
section shall be based upon all of the following: 37349

(i) Scientific information, including, without limitation, 37350
toxicological information and actual or proposed human and 37351
environmental exposure; 37352

(ii) Locational and climatic factors; 37353

(iii) Surrounding land use and human activities; 37354

(iv) Differing levels of remediation that may be required 37355

when an existing land use is continued compared to when a 37356
different land use follows the remediation. 37357

(c) Any standards established pursuant to rules adopted under 37358
division (B)(2) of this section shall be no more stringent than 37359
standards established under the environmental statutes of this 37360
state and rules adopted under them for the same contaminant in the 37361
same environmental medium that are in effect at the time the risk 37362
assessment is conducted. 37363

(3) Minimum standards for phase I property assessments. The 37364
standards shall specify the information needed to demonstrate that 37365
there is no reason to believe that contamination exists on a 37366
property. The rules adopted under division (B)(3) of this section, 37367
at a minimum, shall require that a phase I property assessment 37368
include all of the following: 37369

(a) A review and analysis of deeds, mortgages, easements of 37370
record, and similar documents relating to the chain of title to 37371
the property that are publicly available or that are known to and 37372
reasonably available to the owner or operator; 37373

(b) A review and analysis of any previous environmental 37374
assessments, property assessments, environmental studies, or 37375
geologic studies of the property and any land within two thousand 37376
feet of the boundaries of the property that are publicly available 37377
or that are known to and reasonably available to the owner or 37378
operator; 37379

(c) A review of current and past environmental compliance 37380
histories of persons who owned or operated the property; 37381

(d) A review of aerial photographs of the property that 37382
indicate prior uses of the property; 37383

(e) Interviews with managers of activities conducted at the 37384
property who have knowledge of environmental conditions at the 37385

property; 37386

(f) Conducting an inspection of the property consisting of a 37387
walkover; 37388

(g) Identifying the current and past uses of the property, 37389
adjoining tracts of land, and the area surrounding the property, 37390
including, without limitation, interviews with persons who reside 37391
or have resided, or who are or were employed, within the area 37392
surrounding the property regarding the current and past uses of 37393
the property and adjacent tracts of land. 37394

The rules adopted under division (B)(3) of this section shall 37395
establish criteria to determine when a phase II property 37396
assessment shall be conducted when a phase I property assessment 37397
reveals facts that establish a reason to believe that hazardous 37398
substances or petroleum have been treated, stored, managed, or 37399
disposed of on the property if the person undertaking the phase I 37400
property assessment wishes to obtain a covenant not to sue under 37401
section 3746.12 of the Revised Code. 37402

(4) Minimum standards for phase II property assessments. The 37403
standards shall specify the information needed to demonstrate that 37404
any contamination present at the property does not exceed 37405
applicable standards or that the remedial activities conducted at 37406
the property have achieved compliance with applicable standards. 37407
The rules adopted under division (B)(4) of this section, at a 37408
minimum, shall require that a phase II property assessment include 37409
all of the following: 37410

(a) A review and analysis of all documentation prepared in 37411
connection with a phase I property assessment conducted within the 37412
one hundred eighty days before the phase II property assessment 37413
begins. The rules adopted under division (B)(4)(a) of this section 37414
shall require that if a period of more than one hundred eighty 37415
days has passed between the time that the phase I assessment of 37416

the property was completed and the phase II assessment begins, the 37417
phase II assessment shall include a reasonable inquiry into the 37418
change in the environmental condition of the property during the 37419
intervening period. 37420

(b) Quality assurance objectives for measurements taken in 37421
connection with a phase II assessment; 37422

(c) Sampling procedures to ensure the representative sampling 37423
of potentially contaminated environmental media; 37424

(d) Quality assurance and quality control requirements for 37425
samples collected in connection with phase II assessments; 37426

(e) Analytical and data assessment procedures; 37427

(f) Data objectives to ensure that samples collected in 37428
connection with phase II assessments are biased toward areas where 37429
information indicates that contamination by hazardous substances 37430
or petroleum is likely to exist. 37431

(5) Standards governing the conduct of certified 37432
professionals, criteria and procedures for the certification of 37433
professionals to issue no further action letters under section 37434
3746.11 of the Revised Code, and criteria for the suspension and 37435
revocation of those certifications. The director shall take an 37436
action regarding a certification as a final action. The issuance, 37437
denial, renewal, suspension, and revocation of those 37438
certifications are subject to Chapter 3745. of the Revised Code, 37439
~~and the director shall take any such action regarding a~~ 37440
~~certification as a final action~~ except that, in lieu of publishing 37441
an action regarding a certification in a newspaper of general 37442
circulation as required in section 3745.07 of the Revised Code, 37443
such an action shall be published on the environmental protection 37444
agency's web site and in the agency's weekly review not later than 37445
fifteen days after the date of the issuance, denial, renewal, 37446
suspension, or revocation of the certification and not later than 37447

thirty days before a hearing or public meeting concerning the 37448
action. 37449

The rules adopted under division (B)(5) of this section shall 37450
do all of the following: 37451

(a) Provide for the certification of environmental 37452
professionals to issue no further action letters pertaining to 37453
investigations and remedies in accordance with the criteria and 37454
procedures set forth in the rules. The rules adopted under 37455
division (B)(5)(a) of this section shall do at least all of the 37456
following: 37457

(i) Authorize the director to consider such factors as an 37458
environmental professional's previous performance record regarding 37459
such investigations and remedies and the environmental 37460
professional's environmental compliance history when determining 37461
whether to certify the environmental professional; 37462

(ii) Ensure that an application for certification is reviewed 37463
in a timely manner; 37464

(iii) Require the director to certify any environmental 37465
professional who the director determines complies with those 37466
criteria; 37467

(iv) Require the director to deny certification for any 37468
environmental professional who does not comply with those 37469
criteria. 37470

(b) Establish an annual fee to be paid by environmental 37471
professionals certified pursuant to the rules adopted under 37472
division (B)(5)(a) of this section. The fee shall be established 37473
at an amount calculated to defray the costs to the ~~environmental~~ 37474
~~protection~~ agency for the required reviews of the qualifications 37475
of environmental professionals for certification and for the 37476
issuance of the certifications. 37477

(c) Develop a schedule for and establish requirements 37478
governing the review by the director of the credentials of 37479
environmental professionals who were deemed to be certified 37480
professionals under division (D) of section 3746.07 of the Revised 37481
Code in order to determine if they comply with the criteria 37482
established in rules adopted under division (B)(5) of this 37483
section. The rules adopted under division (B)(5)(c) of this 37484
section shall do at least all of the following: 37485

(i) Ensure that the review is conducted in a timely fashion; 37486

(ii) Require the director to certify any such environmental 37487
professional who the director determines complies with those 37488
criteria; 37489

(iii) Require any such environmental professional initially 37490
to pay the fee established in the rules adopted under division 37491
(B)(5)(b) of this section at the time that the environmental 37492
professional is so certified by the director; 37493

(iv) Establish a time period within which any such 37494
environmental professional who does not comply with those criteria 37495
may obtain the credentials that are necessary for certification; 37496

(v) Require the director to deny certification for any such 37497
environmental professional who does not comply with those criteria 37498
and who fails to obtain the necessary credentials within the 37499
established time period. 37500

(d) Require that any information submitted to the director 37501
for the purposes of the rules adopted under division (B)(5)(a) or 37502
(c) of this section comply with division (A) of section 3746.20 of 37503
the Revised Code; 37504

(e) Authorize the director to suspend or revoke the 37505
certification of an environmental professional if the director 37506
finds that the environmental professional's performance has 37507

resulted in the issuance of no further action letters under 37508
section 3746.11 of the Revised Code that are not consistent with 37509
applicable standards or finds that the certified environmental 37510
professional has not substantially complied with section 3746.31 37511
of the Revised Code; 37512

(f) Authorize the director to suspend for a period of not 37513
more than five years or to permanently revoke a certified 37514
environmental professional's certification for any violation of or 37515
failure to comply with an ethical standard established in rules 37516
adopted under division (B)(5) of this section-; 37517

(g) Require the director to revoke the certification of an 37518
environmental professional if the director finds that the 37519
environmental professional falsified any information on the 37520
environmental professional's application for certification 37521
regarding the environmental professional's credentials or 37522
qualifications or any other information generated for the purposes 37523
of or use under this chapter or rules adopted under it; 37524

(h) Require the director permanently to revoke the 37525
certification of an environmental professional who has violated or 37526
is violating division (A) of section 3746.18 of the Revised Code; 37527

(i) Preclude the director from revoking the certification of 37528
an environmental professional who only conducts investigations and 37529
remedies at property contaminated solely with petroleum unless the 37530
director first consults with the director of commerce. 37531

(6) Criteria and procedures for the certification of 37532
laboratories to perform analyses under this chapter and rules 37533
adopted under it. The issuance, denial, suspension, and revocation 37534
of those certifications are subject to Chapter 3745. of the 37535
Revised Code, and the director of environmental protection shall 37536
take any such action regarding a certification as a final action. 37537

The rules adopted under division (B)(6) of this section shall 37538

do all of the following: 37539

(a) Provide for the certification to perform analyses of 37540
laboratories in accordance with the criteria and procedures 37541
established in the rules adopted under division (B)(6)(a) of this 37542
section and establish an annual fee to be paid by those 37543
laboratories. The fee shall be established at an amount calculated 37544
to defray the costs to the agency for the review of the 37545
qualifications of those laboratories for certification and for the 37546
issuance of the certifications. The rules adopted under division 37547
(B)(6)(a) of this section may provide for the certification of 37548
those laboratories to perform only particular types or categories 37549
of analyses, specific test parameters or group of test parameters, 37550
or a specific matrix or matrices under this chapter. 37551

(b) Develop a schedule for and establish requirements 37552
governing the review by the director of the operations of 37553
laboratories that were deemed to be certified laboratories under 37554
division (E) of section 3746.07 of the Revised Code in order to 37555
determine if they comply with the criteria established in rules 37556
adopted under division (B)(6) of this section. The rules adopted 37557
under division (B)(6)(b) of this section shall do at least all of 37558
the following: 37559

(i) Ensure that the review is conducted in a timely fashion; 37560

(ii) Require the director to certify any such laboratory that 37561
the director determines complies with those criteria; 37562

(iii) Require any such laboratory initially to pay the fee 37563
established in the rules adopted under division (B)(6)(a) of this 37564
section at the time that the laboratory is so certified by the 37565
director; 37566

(iv) Establish a time period within which any such laboratory 37567
that does not comply with those criteria may make changes in its 37568
operations necessary for the performance of analyses under this 37569

chapter and rules adopted under it in order to be certified by the 37570
director; 37571

(v) Require the director to deny certification for any such 37572
laboratory that does not comply with those criteria and that fails 37573
to make the necessary changes in its operations within the 37574
established time period. 37575

(c) Require that any information submitted to the director 37576
for the purposes of the rules adopted under division (B)(6)(a) or 37577
(b) of this section comply with division (A) of section 3746.20 of 37578
the Revised Code; 37579

(d) Authorize the director to suspend or revoke the 37580
certification of a laboratory if the director finds that the 37581
laboratory's performance has resulted in the issuance of no 37582
further action letters under section 3746.11 of the Revised Code 37583
that are not consistent with applicable standards; 37584

(e) Authorize the director to suspend or revoke the 37585
certification of a laboratory if the director finds that the 37586
laboratory falsified any information on its application for 37587
certification regarding its credentials or qualifications; 37588

(f) Require the director permanently to revoke the 37589
certification of a laboratory that has violated or is violating 37590
division (A) of section 3746.18 of the Revised Code. 37591

(7) Information to be included in a no further action letter 37592
prepared under section 3746.11 of the Revised Code, including, 37593
without limitation, all of the following: 37594

(a) A summary of the information required to be submitted to 37595
the certified environmental professional preparing the no further 37596
action letter under division (C) of section 3746.10 of the Revised 37597
Code; 37598

(b) Notification that a risk assessment was performed in 37599

accordance with rules adopted under division (B)(2) of this	37600
section if such an assessment was used in lieu of generic	37601
numerical clean-up standards established in rules adopted under	37602
division (B)(1) of this section;	37603
(c) The contaminants addressed at the property, if any, their	37604
source, if known, and their levels prior to remediation;	37605
(d) The identity of any other person who performed work to	37606
support the request for the no further action letter as provided	37607
in division (B)(2) of section 3746.10 of the Revised Code and the	37608
nature and scope of the work performed by that person;	37609
(e) A list of the data, information, records, and documents	37610
relied upon by the certified environmental professional in	37611
preparing the no further action letter.	37612
(8) Methods for determining fees to be paid for the following	37613
services provided by the agency under this chapter and rules	37614
adopted under it:	37615
(a) Site- or property-specific technical assistance in	37616
developing or implementing plans in connection with a voluntary	37617
action;	37618
(b) Reviewing applications for and issuing consolidated	37619
standards permits under section 3746.15 of the Revised Code and	37620
monitoring compliance with those permits;	37621
(c) Negotiating, preparing, and entering into agreements	37622
necessary for the implementation and administration of this	37623
chapter and rules adopted under it;	37624
(d) Reviewing no further action letters, issuing covenants	37625
not to sue, and monitoring compliance with any terms and	37626
conditions of those covenants and with operation and maintenance	37627
agreements entered into pursuant to those covenants, including,	37628
without limitation, conducting audits of properties where	37629

voluntary actions are being or were conducted under this chapter 37630
and rules adopted under it. 37631

The fees established pursuant to the rules adopted under 37632
division (B)(8) of this section shall be at a level sufficient to 37633
defray the direct and indirect costs incurred by the agency for 37634
the administration and enforcement of this chapter and rules 37635
adopted under it other than the provisions regarding the 37636
certification of professionals and laboratories. 37637

(9) Criteria for selecting the no further action letters 37638
issued under section 3746.11 of the Revised Code that will be 37639
audited under section 3746.17 of the Revised Code, and the scope 37640
and procedures for conducting those audits. The rules adopted 37641
under division (B)(9) of this section, at a minimum, shall require 37642
the director to establish priorities for auditing no further 37643
action letters to which any of the following applies: 37644

(a) The letter was prepared by an environmental professional 37645
who was deemed to be a certified professional under division (D) 37646
of section 3746.07 of the Revised Code, but who does not comply 37647
with the criteria established in rules adopted under division 37648
(B)(5) of this section as determined pursuant to rules adopted 37649
under division (B)(5)(d) of this section-; 37650

(b) The letter was submitted fraudulently-; 37651

(c) The letter was prepared by a certified environmental 37652
professional whose certification subsequently was revoked in 37653
accordance with rules adopted under division (B)(5) of this 37654
section, or analyses were performed for the purposes of the no 37655
further action letter by a certified laboratory whose 37656
certification subsequently was revoked in accordance with rules 37657
adopted under division (B)(6) of this section-; 37658

(d) A covenant not to sue that was issued pursuant to the 37659
letter was revoked under this chapter-; 37660

(e) The letter was for a voluntary action that was conducted 37661
pursuant to a risk assessment in accordance with rules adopted 37662
under division (B)(2) of this section-; 37663

(f) The letter was for a voluntary action that included as 37664
remedial activities engineering controls or institutional controls 37665
or activity and use limitations authorized under section 3746.05 37666
of the Revised Code. 37667

The rules adopted under division (B)(9) of this section shall 37668
provide for random audits of no further action letters to which 37669
the rules adopted under divisions (B)(9)(a) to (f) of this section 37670
do not apply. 37671

(10) A classification system to characterize ground water 37672
according to its capability to be used for human use and its 37673
impact on the environment and a methodology that shall be used to 37674
determine when ground water that has become contaminated from 37675
sources on a property for which a covenant not to sue is requested 37676
under section 3746.11 of the Revised Code shall be remediated to 37677
the standards established in the rules adopted under division 37678
(B)(1) or (2) of this section. 37679

(a) In adopting rules under division (B)(10) of this section 37680
to characterize ground water according to its capability for human 37681
use, the director shall consider all of the following: 37682

(i) The presence of legally enforceable, reliable 37683
restrictions on the use of ground water, including, without 37684
limitation, local rules or ordinances; 37685

(ii) The presence of regional commingled contamination from 37686
multiple sources that diminishes the quality of ground water; 37687

(iii) The natural quality of ground water; 37688

(iv) Regional availability of ground water and reasonable 37689
alternative sources of drinking water; 37690

(v) The productivity of the aquifer;	37691
(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;	37692 37693
(vii) The existing use of ground water.	37694
(b) In adopting rules under division (B)(10) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:	37695 37696 37697
(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;	37698 37699 37700
(ii) The availability and feasibility of technology to remedy ground water contamination.	37701 37702
(11) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;	37703 37704
(12)(a) In the case of voluntary actions involving contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the voluntary action pursuant to rules adopted under division (B)(12)(b) of this section;	37705 37706 37707 37708 37709 37710 37711 37712 37713 37714 37715
(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a risk assessment are precluded by the rules adopted under division	37716 37717 37718 37719 37720

(B)(12)(a) of this section. The rules governing the procedures for 37721
the case-by-case development of standards for the remediation of 37722
contaminated ground water shall establish application, public 37723
participation, adjudication, and appeals requirements and 37724
procedures that are equivalent to the requirements and procedures 37725
established in section 3746.09 of the Revised Code and rules 37726
adopted under division (B)(11) of this section, except that the 37727
procedural rules shall not require an applicant to make the 37728
demonstrations set forth in divisions (A)(1) to (3) of section 37729
3746.09 of the Revised Code. 37730

(13) A definition of the evidence that constitutes sufficient 37731
evidence for the purpose of division (A)(5) of section 3746.02 of 37732
the Revised Code. 37733

At least thirty days before filing the proposed rules 37734
required to be adopted under this section with the secretary of 37735
state, director of the legislative service commission, and joint 37736
committee on agency rule review in accordance with divisions (B) 37737
and (H) of section 119.03 of the Revised Code, the director of 37738
environmental protection shall hold at least one public meeting on 37739
the proposed rules in each of the five districts into which the 37740
agency has divided the state for administrative purposes. 37741

Sec. 3746.071. (A) As used in this section, "certified 37742
professional" means a certified professional deemed to be 37743
certified under division (D) of section 3746.07 of the Revised 37744
Code. 37745

(B) A certified professional shall do all of the following: 37746

(1) Protect the safety, health, and welfare of the public in 37747
the performance of ~~his~~ professional duties. If a circumstance 37748
arises where the certified professional faces a situation where 37749
the safety, health, or welfare of the public would not be 37750

protected, ~~he~~ the certified professional shall do all of the 37751
following: 37752

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 37753
professional's employer or client; 37754

(b) Refuse to accept responsibility for the design, report, 37755
or statement involved; 37756

(c) Notify the director of environmental protection if, in 37757
the opinion of the certified professional, the situation is 37758
sufficiently important. 37759

(2) Undertake to perform assignments only when ~~he~~ the 37760
certified professional or ~~his~~ the certified professional's 37761
consulting support is qualified by training and experience in the 37762
specific technical fields involved; 37763

(3) Be completely objective in any professional report, 37764
statement, or testimony. ~~He~~ The certified professional shall 37765
include all relevant and pertinent information in the report, 37766
statement, or testimony when the result of an omission would or 37767
reasonably could lead to a fallacious conclusion. 37768

(4) Express an opinion as a technical or expert witness 37769
before any court, commission, or other tribunal only when it is 37770
founded upon adequate knowledge of the facts in issue, upon a 37771
background of technical competence in the subject matter, and upon 37772
honest conviction of the accuracy and propriety of ~~his~~ the 37773
testimony. 37774

(C) A certified professional shall not issue statements, 37775
criticisms, or arguments on matters connected with public policy 37776
that are inspired or paid for by an interested party, unless ~~he~~ 37777
the certified professional has prefaced ~~his~~ the remarks by 37778
explicitly identifying ~~himself~~ the certified professional, by 37779
disclosing the identity of the parties on whose behalf ~~he~~ the 37780
certified professional is speaking, and by revealing the existence 37781

of any pecuniary interest ~~he~~ the certified professional may have 37782
in the instant matters. 37783

(D)(1) A certified professional shall conscientiously avoid 37784
any conflict of interest with ~~his~~ the certified professional's 37785
employer or client. 37786

(2) A certified professional promptly shall inform ~~his~~ the 37787
certified professional's employer or client of any business 37788
association, interests, or circumstances that could influence ~~his~~ 37789
the certified professional's judgment or the quality of ~~his~~ the 37790
certified professional's service to ~~his~~ the employer or client. 37791

(3) A certified professional shall not accept compensation, 37792
financial or otherwise, from more than one party for services on 37793
or pertaining to the same project, unless the circumstances are 37794
fully disclosed to, and agreed to, by all interested parties or 37795
their duly authorized agents. 37796

(4) A certified professional shall not solicit or accept 37797
financial or other valuable considerations from material or 37798
equipment suppliers for specifying their products. 37799

(5) A certified professional shall not solicit or accept 37800
gratuities, directly or indirectly, from contractors, their 37801
agents, or other parties dealing directly with ~~his~~ the certified 37802
professional's employer or client in connection with the work for 37803
which ~~he~~ the certified professional is responsible. 37804

(E)(1) A certified professional shall not pay, solicit, or 37805
offer, directly or indirectly, any bribe or commission for 37806
professional employment with the exception of ~~his~~ payment of the 37807
usual commission for securing salaried positions through licensed 37808
employment agencies. 37809

(2) A certified professional shall seek professional 37810
employment on the basis of qualification and competence for proper 37811
accomplishment of the work. A certified professional may submit 37812

proposed fee information prior to ~~his~~ selection to serve as a 37813
certified professional under this chapter and rules adopted under 37814
it. 37815

(3) A certified professional shall not falsify or permit 37816
misrepresentation of ~~his~~ the certified professional's or ~~his~~ the 37817
certified professional's associates' academic or professional 37818
qualifications. ~~He~~ The certified professional shall not 37819
misrepresent or exaggerate ~~his~~ the certified professional's degree 37820
of responsibility in or for the subject matter of prior 37821
assignments. 37822

(4) Brochures or other presentations incident to the 37823
solicitation of employment by a certified professional shall not 37824
misrepresent pertinent facts concerning ~~his~~ the certified 37825
professional's employers, employees, associates, or joint 37826
ventures, or ~~his or their~~ the past accomplishments of any of them, 37827
with the intent and purpose of enhancing ~~his~~ the certified 37828
professional's qualifications for ~~his~~ the certified professional's 37829
work. 37830

(F)(1) A certified professional shall not sign or seal 37831
professional work for which ~~he~~ the certified professional does not 37832
have personal professional knowledge and direct supervisory 37833
control and responsibility. 37834

(2) A certified professional shall not knowingly associate 37835
with, or permit the use of ~~his~~ the certified professional's own 37836
name or ~~his firm's~~ the name of the certified professional's firm 37837
in, a business venture by any person or firm that ~~he~~ the certified 37838
professional knows, or has reason to believe, is engaging in 37839
business or professional practices of a fraudulent or dishonest 37840
nature. 37841

(3) If a certified professional has knowledge or reason to 37842
believe that another person or firm has violated any of the 37843

provisions of this chapter or any requirement of this section, ~~he~~ 37844
the certified professional shall present the information to the 37845
director in writing. 37846

(G) The director, in accordance with ~~Chapter 3745. rules~~ 37847
adopted under section 3746.04 of the Revised Code, may suspend for 37848
a period of not more than five years or permanently revoke a 37849
certified professional's certification for a violation of or 37850
failure to comply with any requirement or obligation set forth in 37851
this section. 37852

Sec. 3748.07. (A) Every facility that proposes to handle 37853
radioactive material or radiation-generating equipment for which 37854
licensure or registration, respectively, by its handler is 37855
required shall apply in writing to the director of health on forms 37856
prescribed and provided by the director for licensure or 37857
registration. Terms and conditions of licenses and certificates of 37858
registration may be amended in accordance with rules adopted under 37859
section 3748.04 of the Revised Code or orders issued by the 37860
director pursuant to section 3748.05 of the Revised Code. 37861

(B) Until rules are adopted under section 3748.04 of the 37862
Revised Code, an application for a certificate of registration 37863
shall be accompanied by a biennial registration fee of two hundred 37864
eighteen dollars. On and after the effective date of those rules, 37865
an applicant for a license, registration certificate, or renewal 37866
of either shall pay the appropriate fee established in those 37867
rules. 37868

All fees collected under this section shall be deposited in 37869
the state treasury to the credit of the general operations fund 37870
created in section 3701.83 of the Revised Code. The fees shall be 37871
used solely to administer and enforce this chapter and rules 37872
adopted under it. 37873

Any fee required under this section that has not been paid 37874
within ninety days after the invoice date shall be assessed at two 37875
times the original invoiced fee. Any fee that has not been paid 37876
within one hundred eighty days after the invoice date shall be 37877
assessed at five times the original invoiced fee. 37878

(C) The director shall grant a license or registration to any 37879
applicant who has paid the required fee and is in compliance with 37880
this chapter and rules adopted under it. 37881

Until rules are adopted under section 3748.04 of the Revised 37882
Code, certificates of registration shall be effective for two 37883
years from the date of issuance. On and after the effective date 37884
of those rules, licenses and certificates of registration shall be 37885
effective for the applicable period established in those rules. 37886
Licenses and certificates of registration shall be renewed in 37887
accordance with the standard renewal procedure established in 37888
Chapter 4745. of the Revised Code. 37889

Sec. 3748.13. (A) The director of health shall inspect 37890
sources of radiation for which licensure or registration by the 37891
handler is required, and the sources' shielding and surroundings, 37892
according to the schedule established in rules adopted under 37893
division (D) of section 3748.04 of the Revised Code. In accordance 37894
with rules adopted under that section, the director shall inspect 37895
all records and operating procedures of handlers that install 37896
sources of radiation and all sources of radiation for which 37897
licensure of radioactive material or registration of 37898
radiation-generating equipment by the handler is required. The 37899
director may make other inspections upon receiving complaints or 37900
other evidence of violation of this chapter or rules adopted under 37901
it. 37902

The director shall require any hospital registered under 37903
division (A) of section 3701.07 of the Revised Code to develop and 37904

maintain a quality assurance program for all sources of 37905
radiation-generating equipment. A certified radiation expert shall 37906
conduct oversight and maintenance of the program and shall file a 37907
report of audits of the program with the director on forms 37908
prescribed by the director. The audit reports shall become part of 37909
the inspection record. 37910

(B) Until rules are adopted under division (A)(8) of section 37911
3748.04 of the Revised Code, a facility shall pay inspection fees 37912
according to the following schedule and categories: 37913

First dental x-ray tube	\$ 118.00 <u>129.00</u>	37914
Each additional dental x-ray tube at the same location	\$ 59.00 <u>64.00</u>	37915
First medical x-ray tube	\$ 235.00 <u>256.00</u>	37916
Each additional medical x-ray tube at the same location	\$ 125.00 <u>136.00</u>	37917
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 466.00 <u>508.00</u>	37918
First nonionizing radiation-generating equipment of any kind	\$ 235.00 <u>256.00</u>	37919
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 125.00 <u>136.00</u>	37920
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ 291.00 <u>317.00</u>	37921

Until rules are adopted under division (A)(8) of section 37922
3748.04 of the Revised Code, the fee for an inspection to 37923

determine whether violations cited in a previous inspection have
been corrected is fifty per cent of the fee applicable under the
schedule in this division. Until those rules are adopted, the fee
for the inspection of a facility that is not licensed or
registered and for which no license or registration application is
pending at the time of inspection is three hundred ~~sixty-three~~
ninety-five dollars plus the fee applicable under the schedule in
this division.

The director may conduct a review of shielding plans or the
adequacy of shielding on the request of a licensee or registrant
or an applicant for licensure or registration or during an
inspection when the director considers a review to be necessary.
Until rules are adopted under division (A)(8) of section 3748.04
of the Revised Code, the fee for the review is ~~five~~ six hundred
~~eighty-three~~ thirty-five dollars for each room where a source of
radiation is used and is in addition to any other fee applicable
under the schedule in this division.

All fees shall be paid to the department of health no later
than thirty days after the invoice for the fee is mailed. Fees
shall be deposited in the general operations fund created in
section 3701.83 of the Revised Code. The fees shall be used solely
to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid
within ninety days after the invoice date shall be assessed at two
times the original invoiced fee. Any fee that has not been paid
within one hundred eighty days after the invoice date shall be
assessed at five times the original invoiced fee.

(C) If the director determines that a board of health of a
city or general health district is qualified to conduct
inspections of radiation-generating equipment, the director may
delegate to the board, by contract, the authority to conduct such

inspections. In making a determination of the qualifications of a
board of health to conduct those inspections, the director shall
evaluate the credentials of the individuals who are to conduct the
inspections of radiation-generating equipment and the radiation
detection and measuring equipment available to them for that
purpose. If a contract is entered into, the board shall have the
same authority to make inspections of radiation-generating
equipment as the director has under this chapter and rules adopted
under it. The contract shall stipulate that only individuals
approved by the director as qualified shall be permitted to
inspect radiation-generating equipment under the contract's
provisions. The contract shall provide for such compensation for
services as is agreed to by the director and the board of health
of the contracting health district. The director may reevaluate
the credentials of the inspection personnel and their radiation
detecting and measuring equipment as often as the director
considers necessary and may terminate any contract with the board
of health of any health district that, in the director's opinion,
is not satisfactorily performing the terms of the contract.

(D) The director may enter at all reasonable times upon any
public or private property to determine compliance with this
chapter and rules adopted under it.

Sec. 3770.061. There is hereby created in the state treasury
the charitable gaming oversight fund. The state lottery commission
shall credit to the fund any money it receives from the office of
the attorney general under any agreement the commission and the
office have entered into under division (I) of section 2915.08 of
the Revised Code. The commission shall use money in the fund to
provide oversight, licensing, and monitoring of charitable gaming
activities in this state in accordance with the agreement and
Chapter 2915. of the Revised Code. Not later than the first day of

July of each fiscal year, or as soon as possible thereafter, the 37986
commission may certify to the office of budget and management any 37987
unobligated fund balances not necessary to be used under this 37988
section. The commission may request the office of budget and 37989
management to transfer these balances to the lottery profits 37990
education fund for use in accordance with section 3770.06 of the 37991
Revised Code. 37992

Sec. 3773.34. (A) The Ohio athletic commission shall adopt 37993
and may amend or rescind rules in accordance with Chapter 119. of 37994
the Revised Code, prescribing the conditions under which prize 37995
fights and public boxing or wrestling matches or exhibitions may 37996
be conducted, classifying professional boxers by weight, and 37997
providing for the administration of sections 3773.31 to 3773.57 of 37998
the Revised Code. The rules may require that an applicant for a 37999
contestant's license to participate in a public boxing match or 38000
exhibition take an HIV test, as defined in section 3701.24 of the 38001
Revised Code, before being issued the contestant's license and may 38002
require that a licensed contestant take such an HIV test before 38003
participating in a public boxing match or exhibition. The 38004
commission, or the commission's executive director when authorized 38005
by the commission, may issue, deny, suspend, or revoke permits to 38006
hold prize fights and public boxing or wrestling matches or 38007
exhibitions,~~and. The commission~~ may issue, deny, suspend, or 38008
revoke licenses to persons engaged in any public boxing match or 38009
exhibition as authorized by sections 3773.31 to 3773.57 of the 38010
Revised Code. 38011

(B) In addition to the duties set forth in this chapter, the 38012
Ohio athletic commission shall take action as necessary to carry 38013
out the provisions of Chapter 4771. of the Revised Code governing 38014
athlete agents. 38015

(C) On or before the thirty-first day of December of each year, the commission shall make a report to the governor of its proceedings for the year ending on the first day of December of that calendar year, and may include in the report any recommendations pertaining to its duties.

Sec. 3773.38. Each person who holds a promoter's license issued under section 3773.36 of the Revised Code who desires to conduct a public boxing or wrestling match or exhibition where one or more contests are to be held shall obtain a permit from the Ohio athletic commission or the commission's executive director when the executive director is authorized by the commission to issue those types of permits. Application for such a permit shall be made in writing and on forms prescribed by the commission, shall be filed with the commission, and shall be accompanied by the permit fee prescribed in section 3773.43 of the Revised Code.

The application for a permit issued under this section shall include the date and starting time of the match or exhibition, the address of the place where the match or exhibition is to be held, the names of the contestants, the seating capacity of the building or hall where the exhibition is to be held, the admission charge or any other charges, the amount of compensation or the percentage of gate receipts to be paid to each contestant, the name and address of the applicant, a copy of the current official rules that govern the particular sport, and the serial number of the applicant's promoter's license.

The commission, or the commission's executive director when authorized by the commission, may require the applicant to deposit with the commission before a public boxing match or exhibition a cash bond, certified check, bank draft, or surety bond in an amount equal to five per cent of the estimated gross receipts from the match or exhibition.

Sec. 3773.39. (A) Upon receipt of an application for a permit 38047
to hold a public boxing or wrestling match or exhibition under 38048
section 3773.38 of the Revised Code, the Ohio athletic commission,
or the commission's executive director when authorized by the 38049
commission, shall determine if the applicant holds a valid 38050
promoter's license issued pursuant to section 3773.36 of the 38051
Revised Code. Upon receipt of an application for a permit to hold 38052
a public boxing match or exhibition, the commission, or the 38053
commission's executive director when authorized by the commission, 38054
also shall determine if the contestants are evenly and fairly 38055
matched according to skill, experience, and weight so as to 38056
produce a fair and sportsmanlike contest, and whether the 38057
applicant is financially responsible and is able to pay to each 38058
contestant the compensation or percentage of the gate receipts 38059
named in the application. The commission, or the commission's 38060
executive director when authorized by the commission, may, if 38061
applicable, require the applicant to deposit with it within 38062
forty-eight hours before the match or exhibition the total 38063
compensation or estimated portion of gate receipts to be paid all 38064
contestants named in the application made under section 3773.38 of 38065
the Revised Code. 38066
38067

(B) If the commission, or the commission's executive director 38068
when authorized by the commission, determines that the applicant 38069
has met all the requirements specified in division (A) of this 38070
section, ~~it~~ the commission or executive director shall issue the 38071
applicant a permit to conduct the match or exhibition. If the 38072
applicant fails to deposit any compensation or portion of gate 38073
receipts required by the commission, or executive director before 38074
the first contest of the match or exhibition is held, the 38075
commission, or the commission's executive director when authorized 38076
by the commission, may revoke the permit and order the applicant 38077
not to conduct the match or exhibition described in the permit. 38078

(C) Each permit issued pursuant to this section shall bear 38079
the name and post office address of the applicant, the address of 38080
the place where the public boxing or wrestling match or exhibition 38081
is to be held, the date and starting time of the match or 38082
exhibition, and a serial number designated by the commission. 38083

A permit issued under this section shall allow the permit 38084
holder to conduct only the match or exhibition named in the 38085
permit. A permit is not transferable. 38086

Sec. 3773.40. No person who holds a promoter's license to 38087
conduct a public boxing match or exhibition under section 3773.36 38088
of the Revised Code shall: 38089

(A) Hold any match or exhibition at any time or place other 38090
than that stated on a permit issued under section 3773.38 of the 38091
Revised Code; 38092

(B) Allow any contestant to participate in the match or 38093
exhibition unless the contestant is the licensed contestant named 38094
in the application for such permit or a licensed contestant 38095
authorized to compete as a substitute for such a contestant by the 38096
inspector assigned to the facility where the match or exhibition 38097
is held for that match or exhibition; 38098

(C) Charge a higher admission price for a match or exhibition 38099
than that stated in the application; 38100

(D) Pay a greater compensation or percentage of the gate 38101
receipts to any contestant than that stated in the application. 38102

The Ohio athletic commission, or the commission's executive 38103
director when authorized by the commission, upon application by a 38104
holder of a permit under section 3773.38 of the Revised Code, may 38105
allow the permit holder to hold the match or exhibition for which 38106
the permit was issued at an alternative site that is within the 38107
same municipal corporation or township and that offers 38108

substantially similar seating facilities, or allow the permit 38109
holder to substitute contestants or seconds, provided that the 38110
substitute contestants are evenly matched with their opponents in 38111
skill, experience, and weight. 38112

Sec. 3773.57. The Ohio athletic commission and the 38113
commission's executive director shall not issue a license or 38114
permit to conduct public boxing or wrestling matches or 38115
exhibitions in a municipal corporation or the unincorporated 38116
portion of a township if the commission or the commission's 38117
executive director determines that the legislative authority of 38118
the municipal corporation or board of township trustees has in 38119
effect an ordinance or resolution prohibiting such matches or 38120
exhibitions. 38121

Sec. 3793.09. (A) There is hereby created the council on 38122
alcohol and drug addiction services which shall consist of the 38123
public officials specified in division (B) of this section, or 38124
their designees, and thirteen members appointed by the governor 38125
with the advice and consent of the senate. The members appointed 38126
by the governor shall be representatives of the following: boards 38127
of alcohol, drug addiction, and mental health services; the 38128
criminal and juvenile justice systems; and alcohol and drug 38129
addiction programs. At least four of the appointed members shall 38130
be persons who have received or are receiving alcohol or drug 38131
addiction services or are parents or other relatives of such 38132
persons; of these at least two shall be women and at least one 38133
shall be a member of a minority group. 38134

The governor shall make initial appointments to the council 38135
not later than thirty days after October 10, 1989. Of the initial 38136
appointments, six shall be for terms ending July 31, 1991, and 38137
seven shall be for terms ending July 31, 1992. Thereafter, terms 38138
of office shall be two years, with each term ending on the same 38139

day of the same month as the term it succeeds. Each member shall
hold office from the date of the member's appointment until the
end of the term for which the member was appointed. Members may be
reappointed. Vacancies shall be filled in the same manner as
original appointments. 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 as a member
for the remainder of the term. A member shall continue in office
subsequent to the expiration of the member's term until the
member's successor takes office or until a period of sixty days
has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health,
rehabilitation and correction, and youth services; the
superintendents of public instruction and liquor control; the
attorney general; the adjutant general; and the executive director
of the ~~office~~ division of criminal justice services in the
department of public safety shall be voting members of the
council, except that any of these officials may designate an
individual to serve in the official's place as a voting member of
the council. The director of alcohol and drug addiction services
shall serve as a nonvoting member of the council.

(C) The governor shall annually appoint a ~~chairman~~
chairperson from among the members of the council. The council
shall meet quarterly and at other times the ~~chairman~~ chairperson
considers necessary. In addition to other duties specified in this
chapter, the council shall review the development of the
comprehensive statewide plan for alcohol and drug addiction
services, revisions of the plan, and other actions taken to
implement the purposes of this chapter by the department of
alcohol and drug addiction services and shall act as an advisory
council to the director of alcohol and drug addiction services.

(D) Members of the council shall serve without compensation,

but shall be paid actual and necessary expenses incurred in the 38172
performance of their duties. 38173

Sec. 3901.021. (A) Three-fourths of all appointment and other 38174
fees collected under section 3905.107, and division (B) of section 38175
3905.20, and division (A)(6) of section 3905.40 of the Revised 38176
Code shall be paid into the state treasury to the credit of the 38177
department of insurance operating fund, which is hereby created. 38178
The remaining one-fourth shall be credited to the general revenue 38179
fund. All Other revenues collected by the superintendent of 38180
insurance, such as registration fees for sponsored seminars or 38181
conferences and grants from private entities, shall be paid into 38182
the state treasury to the credit of the department of insurance 38183
operating fund. 38184

(B) Seven-tenths of all fees collected under divisions 38185
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 38186
shall be paid into the state treasury to the credit of the 38187
department of insurance operating fund. The remaining three-tenths 38188
shall be credited to the general revenue fund. 38189

(C) All operating expenses of the department of insurance 38190
except those expenses defined under section 3901.07 of the Revised 38191
Code shall be paid from the department of insurance operating 38192
fund. 38193

Sec. 3901.17. (A) As used in this section: 38194

(1) "Insurer" includes, but is not limited to, any person 38195
that is an affiliate of or affiliated with the insurer, as defined 38196
in division (A) of section 3901.32 of the Revised Code, and any 38197
person that is a subsidiary of the insurer as defined in division 38198
(F) of section 3901.32 of the Revised Code. 38199

(2) "Laws of this state relating to insurance" has the 38200
meaning defined in division (A)(1) of section 3901.04 of the 38201

Revised Code.	38202
(3) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.	38203 38204
(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:	38205 38206 38207 38208 38209 38210 38211 38212
(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein;	38213 38214 38215
(2) Making or proposing to make any insurance contracts;	38216
(3) Soliciting, taking, or receiving any application for insurance;	38217 38218
(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;	38219 38220 38221
(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, transacting any matters subsequent to effecting a contract of insurance and arising out of it;	38222 38223 38224 38225 38226
(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance.	38227 38228 38229 38230
Any such act shall be considered to be the doing of an	38231

insurance business in this state by such insurer, person, or agent 38232
and shall be its agreement that service of any lawful subpoena, 38233
notice, order, or process is of the same legal force and validity 38234
as personal service of the subpoena, notice, order, or process in 38235
this state upon the insurer, person, or agent. 38236

(C) Service of process in judicial proceedings shall be as 38237
provided by the Rules of Civil Procedure. Service in or out of 38238
this state of notice, orders, or subpoenas in administrative 38239
proceedings before the superintendent shall be as provided in 38240
section 3901.04 of the Revised Code. 38241

(D) Service of any notice, order, subpoena, or process in any 38242
such action, suit, or proceeding shall, in addition to the manner 38243
provided in division (C) of this section, be valid if served upon 38244
any person within this state who, in this state on behalf of such 38245
insurer, person, or agent is or has been: 38246

(1) Soliciting, procuring, effecting, or negotiating for 38247
insurance; 38248

(2) Making, issuing, or delivering any contract of insurance; 38249

(3) Collecting or receiving any premium, membership fees, 38250
assessment, dues, or other consideration for insurance; 38251

(4) Disseminating information as to coverage or rates, 38252
forwarding applications, inspecting risks, fixing rates, 38253
investigating or adjusting claims or losses, or transacting any 38254
matters subsequent to effecting a contract of insurance and 38255
arising out of it. 38256

(E) Nothing in this section shall limit or abridge the right 38257
to serve any subpoena, order, process, notice, or demand upon any 38258
insurer, person, or agent in any other manner permitted by law. 38259

(F) Every person investigating or adjusting any loss or claim 38260
under a policy of insurance not excepted under division (I) of 38261

this section and issued by any such insurer and covering a subject 38262
of insurance that was resident, located, or to be performed in 38263
this state at the time of issuance shall immediately report the 38264
policy to the superintendent. 38265

(G) Each such insurer that does any of the acts set forth in 38266
division (B) of this section in this state by mail or otherwise 38267
shall be subject to a tax of five per cent on the gross premiums, 38268
membership fees, assessments, dues, and other considerations 38269
received on all contracts of insurance covering subjects of 38270
insurance resident, located, or to be performed within this state. 38271
Such insurer shall annually, on or before the first day of July, 38272
pay such tax to the treasurer of state, as calculated on a form 38273
prescribed by the treasurer of state. If the tax is not paid when 38274
due, the tax shall be increased by a penalty of twenty-five per 38275
cent. An interest charge computed as set forth in section 5725.221 38276
of the Revised Code shall be made on the entire sum of the tax 38277
plus penalty, which interest shall be computed from the date the 38278
tax is due until it is paid. The treasurer of state shall 38279
determine and report all claims for penalties and interest 38280
accruing under this section to the attorney general for 38281
collection. 38282

For purposes of this division, payment is considered made 38283
when it is received by the treasurer of state, irrespective of any 38284
United States postal service marking or other stamp or mark 38285
indicating the date on which the payment may have been mailed. 38286

(H) No contract of insurance effected in this state by mail 38287
or otherwise by any such insurer is enforceable by the insurer. 38288

(I) This section does not apply to: 38289

(1) Insurance obtained pursuant to sections 3905.30 to 38290
3905.36 of the Revised Code; 38291

(2) The transaction of reinsurance by insurers; 38292

(3) Transactions in this state involving a policy solicited, 38293
written, and delivered outside this state covering only subjects 38294
of insurance not resident, located, or to be performed in this 38295
state at the time of issuance, provided such transactions are 38296
subsequent to the issuance of the policy; 38297

(4) Transactions in this state involving a policy of group 38298
life or group accident and sickness insurance solicited, written, 38299
and delivered outside this state; 38300

(5) Transactions involving contracts of insurance 38301
independently procured through negotiations occurring entirely 38302
outside this state which are reported to the superintendent and 38303
with respect to which the tax provided by section 3905.36 of the 38304
Revised Code is paid; 38305

(6) An attorney at law acting on behalf of the attorney's 38306
clients in the adjustment of claims or losses; 38307

(7) ~~Any~~ Except as provided in division (G) of this section, 38308
any insurance company underwriter issuing contracts of insurance 38309
to employer insureds or contracts of insurance issued to an 38310
employer insured. For purposes of this section, an "employer 38311
insured" is an insured to whom all of the following apply: 38312

(a) The insured procures the insurance of any risk or risks 38313
by use of the services of a full-time employee acting as an 38314
insurance manager or buyer or the services of a regularly and 38315
continuously qualified insurance consultant. As used in division 38316
(I)(7)(a) of this section, a "regularly and continuously qualified 38317
insurance consultant" does not include any person licensed under 38318
Chapter 3905. of the Revised Code. 38319

(b) The insured's aggregate annual premiums for insurance on 38320
all risks total at least twenty-five thousand dollars; and 38321

(c) The insured has at least twenty-five full-time employees. 38322

(8) Ocean marine insurance. 38323

Sec. 3901.78. ~~Upon the filing of each of its annual~~ 38324
~~statements, or as soon thereafter as practicable, the~~ 38325
~~superintendent of insurance shall issue to each insurance company~~ 38326
~~or association authorized to do business in this state but not~~ 38327
~~incorporated under the laws of this state a certificate of~~ 38328
~~compliance, an original of which must be published in accordance~~ 38329
~~with section 3901.781 of the Revised Code in every county where~~ 38330
~~the insurance company or association has an agency. Upon request~~ 38331
or in any other circumstance that the superintendent of insurance 38332
determines to be appropriate, the superintendent may issue ~~other~~ 38333
certificates of compliance, ~~which certificates are not subject to~~ 38334
~~section 3901.781 of the Revised Code,~~ to insurance companies and 38335
associations authorized to do business in this state. ~~Certificates~~ 38336
~~of compliance either must, which shall~~ be on either forms 38337
established by the national association of insurance commissioners 38338
or on such other forms as the superintendent may prescribe. 38339

Sec. 3903.14. (A) The superintendent of insurance as 38340
rehabilitator may appoint one or more special deputies, who shall 38341
have all the powers and responsibilities of the rehabilitator 38342
granted under this section, and the superintendent may employ such 38343
clerks and assistants as considered necessary. The compensation of 38344
the special deputies, clerks, and assistants and all expenses of 38345
taking possession of the insurer and of conducting the proceedings 38346
shall be fixed by the superintendent, with the approval of the 38347
court and shall be paid out of the funds or assets of the insurer. 38348
The persons appointed under this section shall serve at the 38349
pleasure of the superintendent. In the event that the property of 38350
the insurer does not contain sufficient cash or liquid assets to 38351
defray the costs incurred, the superintendent may advance the 38352
costs so incurred out of any appropriation for the maintenance of 38353

the department of insurance. Any amounts so advanced for expenses 38354
of administration shall be repaid to the superintendent for the 38355
use of the department out of the first available money of the 38356
insurer. 38357

(B) The rehabilitator may take such action as ~~he~~ the 38358
rehabilitator considers necessary or appropriate to reform and 38359
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 38360
powers of the directors, officers, and managers, whose authority 38361
shall be suspended, except as they are redelegated by the 38362
rehabilitator. ~~He~~ The rehabilitator shall have full power to 38363
direct and manage, to hire and discharge employees subject to any 38364
contract rights they may have, and to deal with the property and 38365
business of the insurer. 38366

(C) If it appears to the rehabilitator that there has been 38367
criminal or tortious conduct, or breach of any contractual or 38368
fiduciary obligation detrimental to the insurer by any officer, 38369
manager, agent, director, trustee, broker, employee, or other 38370
person, ~~he~~ the rehabilitator may pursue all appropriate legal 38371
remedies on behalf of the insurer. 38372

(D) If the rehabilitator determines that reorganization, 38373
consolidation, conversion, reinsurance, merger, or other 38374
transformation of the insurer is appropriate, ~~he~~ the rehabilitator 38375
shall prepare a plan to effect such changes. Upon application of 38376
the rehabilitator for approval of the plan, and after such notice 38377
and hearings as the court may prescribe, the court may either 38378
approve or disapprove the plan proposed, or may modify it and 38379
approve it as modified. Any plan approved under this section shall 38380
be, in the judgment of the court, fair and equitable to all 38381
parties concerned. If the plan is approved, the rehabilitator 38382
shall carry out the plan. In the case of a life insurer, the plan 38383
proposed may include the imposition of liens upon the policies of 38384
the company, if all rights of shareholders are first relinquished. 38385

A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights under policies, for such period and to such an extent as may be necessary.

(E) In the case of a medicaid health insuring corporation that has posted a bond or deposited securities in accordance with section 1751.271 of the Revised Code, the plan proposed under division (D) of this section may include the use of the proceeds of the bond or securities to first pay the claims of contracted providers for covered health care services provided to medicaid recipients, then next to pay other claimants with any remaining funds, consistent with the priorities set forth in sections 3903.421 and 3903.42 of the Revised Code.

(F) The rehabilitator shall have the power under sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent transfers.

(G) As used in this section:

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.

(2) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the Revised Code, both of the following apply to medicaid health insuring corporation performance bonds and securities:

(1) Proceeds from the bond issued or securities held pursuant to section 1751.271 of the Revised Code that have been paid to or deposited with the department of insurance shall be considered special deposits for purposes of satisfying claims of contracted providers for covered health care services provided to medicaid

recipients; 38416

(2) Contracted providers that have claims against a health insuring corporation for covered health care services provided to medicaid recipients shall be given first priority against the proceeds of the bond or securities held pursuant to section 1751.27 of the Revised Code, to the exclusion of other creditors, except as provided for in this section. 38417
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(B) If the amount of the proceeds of the bond or securities are not sufficient to satisfy all of the allowed claims of contracted providers for covered health care services provided to medicaid recipients, payment shall proceed as follows: 38423
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(1) Contracted providers shall share in the proceeds of the bond or securities pro rata based on the allowed amount of the providers' claims against the health insuring corporation for covered health care services provided to medicaid recipients; 38427
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(2) After payments are made under division (B)(1) of this section, the net unpaid balance of the claims of contracted providers shall be allowed for payment from the general assets of the estate in accordance with the priorities set forth in section 3903.42 of the Revised Code. 38431
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(C) If the amount of the proceeds of the bond or securities exceeds the allowed claims of contracted providers for covered health care services provided to medicaid recipients, the excess amount shall be considered a general asset of the health insuring corporation's estate to be distributed to other claimants in accordance with the priorities set forth in section 3903.42 of the Revised Code. 38436
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(D) As used in this section: 38443

(1) "Contracted provider" means a provider with a contract with a medicaid health insuring corporation to provide covered 38444
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<u>health care services to medicaid recipients.</u>	38446
<u>(2) "Medicaid recipient" means a person eligible for</u>	38447
<u>assistance under the medicaid program operated pursuant to Chapter</u>	38448
<u>5111. of the Revised Code.</u>	38449
Sec. 3905.04. (A) Except as otherwise provided in section	38450
3905.041 of the Revised Code, a resident individual applying for	38451
an insurance agent license for any of the lines of authority	38452
described in division (B) of this section shall take a written	38453
examination. The examination shall test the knowledge of the	38454
individual with respect to the lines of authority for which	38455
application is made, the duties and responsibilities of an	38456
insurance agent, and the insurance laws of this state. Before	38457
admission to the examination, each individual shall pay the	38458
nonrefundable fee required under division (D) (C) of section	38459
3905.40 of the Revised Code.	38460
(B) The examination described in division (A) of this section	38461
shall be required for the following lines of authority:	38462
(1) Any of the lines of authority set forth in divisions	38463
(B)(1) to (6) of section 3905.06 of the Revised Code;	38464
(2) Title insurance;	38465
(3) Surety bail bonds as provided in sections 3905.83 to	38466
3905.95 of the Revised Code;	38467
(4) Any other line of authority designated by the	38468
superintendent of insurance.	38469
(C) An individual shall not be permitted to take the	38470
examination described in division (A) of this section unless one	38471
or both of the following apply:	38472
(1) The individual has earned a bachelor's or associate's	38473
degree in insurance from an accredited institution.	38474

(2) The individual has completed, for each line of authority 38475
for which the individual has applied, twenty hours of study in a 38476
program of insurance education approved by the superintendent, in 38477
consultation with the insurance agent education advisory council, 38478
under criteria established by the superintendent. Division (C) of 38479
this section does not apply with respect to title insurance or any 38480
other line of authority designated by the superintendent. 38481

(D) An individual who fails to appear for an examination as 38482
scheduled, or fails to pass an examination, may reapply for the 38483
examination if the individual pays the required fee and submits 38484
any necessary forms prior to being rescheduled for the 38485
examination. 38486

(E)(1) The superintendent may, in accordance with Chapter 38487
119. of the Revised Code, adopt any rule necessary for the 38488
implementation of this section. 38489

(2) The superintendent may make any necessary arrangements, 38490
including contracting with an outside testing service, for the 38491
administration of the examinations and the collection of the fees 38492
required by this section. 38493

Sec. 3905.36. Every insured association, company, 38494
corporation, or other person that enters, directly or indirectly, 38495
into any agreements with any insurance company, association, 38496
individual, firm, underwriter, or Lloyd, not authorized to do 38497
business in this state, whereby the insured shall procure, 38498
continue, or renew contracts of insurance covering subjects of 38499
insurance resident, located, or to be performed within this state, 38500
with such unauthorized insurance company, association, individual, 38501
firm, underwriter, or Lloyd, for which insurance there is a gross 38502
premium, membership fee, assessment, dues, or other consideration 38503
charged or collected, shall annually, on or before the 38504
thirty-first day of January, return to the superintendent of 38505

insurance a statement under oath showing the name and address of 38506
the insured, name and address of the insurer, subject of the 38507
insurance, general description of the coverage, and amount of 38508
gross premium, fee, assessment, dues, or other consideration for 38509
such insurance for the preceding twelve-month period and shall at 38510
the same time pay to the treasurer of state a tax of five per cent 38511
of such gross premium, fee, assessment, dues, or other 38512
consideration, after a deduction for return premium, if any, as 38513
calculated on a form prescribed by the treasurer of state. All 38514
taxes collected under this section by the treasurer of state shall 38515
be paid into the general revenue fund. If the tax is not paid when 38516
due, the tax shall be increased by a penalty of twenty-five per 38517
cent. An interest charge computed as set forth in section 5725.221 38518
of the Revised Code shall be made on the entire sum of the tax 38519
plus penalty, which interest shall be computed from the date the 38520
tax is due until it is paid. For purposes of this section, payment 38521
is considered made when it is received by the treasurer of state, 38522
irrespective of any United States postal service marking or other 38523
stamp or mark indicating the date on which the payment may have 38524
been mailed. This section does not apply to: 38525

(A) Insurance obtained pursuant to sections 3905.30 to 38526
3905.35 of the Revised Code; 38527

(B) Transactions in this state involving a policy solicited, 38528
written, and delivered outside this state covering only subjects 38529
of insurance not resident, located, or to be performed in this 38530
state at the time of issuance, provided such transactions are 38531
subsequent to the issuance of the policy; 38532

(C) Attorneys-at-law acting on behalf of their clients in the 38533
adjustment of claims or losses; 38534

~~(D) Any insurance company underwriter issuing contracts of 38535
insurance to employer insureds or contracts of insurance issued to 38536
an employer insured. For purposes of this section an "employer 38537~~

~~insured" is an insured:~~ 38538

~~(1) Who procures the insurance of any risk or risks by use of~~ 38539
~~the services of a full time employee acting as an insurance~~ 38540
~~manager or buyer or the services of a regularly and continuously~~ 38541
~~qualified insurance consultant. As used in division (D)(1) of this~~ 38542
~~section, a "regularly and continuously qualified insurance~~ 38543
~~consultant" does not include any person licensed under Chapter~~ 38544
~~3905. of the Revised Code.~~ 38545

~~(2) Whose aggregate annual premiums for insurance on all~~ 38546
~~risks total at least twenty five thousand dollars; and~~ 38547

~~(3) Who has at least twenty five full time employees.~~ 38548

Each person licensed under section 3905.30 of the Revised 38549
Code shall pay to the treasurer of state, on or before the 38550
thirty-first day of January of each year, five per cent of the 38551
balance of the gross premiums charged for insurance placed or 38552
procured under the license after a deduction for return premiums, 38553
as reported on a form prescribed by the treasurer of state. The 38554
tax shall be collected from the insured by the surplus line broker 38555
who placed or procured the policy of insurance at the time the 38556
policy is delivered to the insured. No license issued under 38557
section 3905.30 of the Revised Code shall be renewed until payment 38558
is made. If the tax is not paid when due, the tax shall be 38559
increased by a penalty of twenty-five per cent. An interest charge 38560
computed as set forth in section 5725.221 of the Revised Code 38561
shall be made on the entire sum of the tax plus penalty, which 38562
interest shall be computed from the date the tax is due until it 38563
is paid. For purposes of this section, payment is considered made 38564
when it is received by the treasurer of state, irrespective of any 38565
United States postal service marking or other stamp or mark 38566
indicating the date on which the payment may have been mailed. 38567

Sec. 3905.40. There shall be paid to the superintendent of insurance the following fees:	38568 38569
(A) Each insurance company doing business in this state shall pay:	38570 38571
(1) For filing a copy of its charter or deed of settlement, two hundred fifty dollars;	38572 38573
(2) For filing each statement, twenty-five <u>one hundred seventy-five</u> dollars;	38574 38575
(3) For each certificate of authority or license, <u>one hundred seventy-five</u> , and <u>for each</u> certified copy thereof, five dollars;	38576 38577
(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;	38578 38579
(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;	38580 38581 38582
(6) For issuing certificates of compliance or certified copies thereof, twenty <u>sixty</u> dollars;	38583 38584
(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars.	38585 38586
(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.	38587 38588 38589
(C) Each foreign insurance company doing business in this state shall pay for making and forwarding annually, semiannually, and quarterly the interest checks and coupons accruing upon bonds and securities deposited, fifty dollars each year on each one hundred thousand dollars deposited.	38590 38591 38592 38593 38594
(D) Each applicant for licensure as an insurance agent shall pay ten dollars before admission to any examination required by	38595 38596

the superintendent. Such fee shall not be paid by the appointing insurance company.

~~(E)~~(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose.

Sec. 3923.27. No policy of sickness and accident insurance delivered, issued for delivery, or renewed in this state after ~~the effective date of this section~~ August 26, 1976, including both individual and group policies, that provides hospitalization coverage for mental illness shall exclude such coverage for the reason that the insured is hospitalized in an institution or facility receiving tax support from the state, any municipal corporation, county, or joint county board, whether such institution or facility is deemed charitable or otherwise, provided the institution or facility or portion thereof is fully accredited by the joint commission on accreditation of hospitals or certified under Titles XVIII and XIX of the "Social Security Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The insurance coverage shall provide payment amounting to the lesser of either the full amount of the statutory charge for the cost of the services pursuant to ~~division (B)(8) of section 5121.04~~ section 5121.33 of the Revised Code or the benefits payable for the services under the applicable insurance policy. Insurance benefits for the coverage shall be paid so long as patients and their liable relatives retain their statutory liability pursuant to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 of the Revised Code. Only that portion or per cent of the benefits

shall be payable that has been assigned, or ordered to be paid, to 38629
the state or other appropriate provider for services rendered by 38630
the institution or facility. 38631

Sec. 4112.12. (A) There is hereby created the commission on 38632
African-American males, which shall consist of not more than 38633
forty-one members as follows: the directors or their designees of 38634
the departments of health, development, alcohol and drug addiction 38635
services, job and family services, rehabilitation and correction, 38636
mental health, and youth services; the adjutant general or the 38637
adjutant general's designee; the equal employment opportunity 38638
officer of the department of administrative services or the equal 38639
employment opportunity officer's designee; the executive director 38640
or the executive director's designee of the Ohio civil rights 38641
commission; the executive director or the executive director's 38642
designee of the office division of criminal justice services in 38643
the department of public safety; the superintendent of public 38644
instruction; the chancellor or the chancellor's designee of the 38645
Ohio board of regents; two members of the house of representatives 38646
appointed by the speaker of the house of representatives; three 38647
members of the senate appointed by the president of the senate; 38648
and not more than twenty-three members appointed by the governor. 38649
The members appointed by the governor shall include an additional 38650
member of the governor's cabinet and at least one representative 38651
of each of the following: the national association for the 38652
advancement of colored people; the urban league; an organization 38653
representing black elected officials; an organization representing 38654
black attorneys; the black religious community; the black business 38655
community; the nonminority business community; and organized 38656
labor; at least one black medical doctor, one black elected member 38657
of a school board, and one black educator; and at least two 38658
representatives of local private industry councils. The remaining 38659
members that may be appointed by the governor shall be selected 38660

from elected officials, civic and community leaders, and 38661
representatives of the employment, criminal justice, education, 38662
and health communities. 38663

(B) Terms of office shall be for three years, with each term 38664
ending on the same day of the same month as did the term that it 38665
succeeds. Each member shall hold office from the date of 38666
appointment until the end of the term for which the member was 38667
appointed. Members may be reappointed. Vacancies shall be filled 38668
in the manner provided for original appointments. Any member 38669
appointed to fill a vacancy occurring prior to the expiration date 38670
of the term for which the member's predecessor was appointed shall 38671
hold office as a member for the remainder of that term. A member 38672
shall continue in office subsequent to the expiration date of the 38673
member's term until the member's successor takes office or until a 38674
period of sixty days has elapsed, whichever occurs first. 38675

The commission annually shall elect a chairperson from among 38676
its members. 38677

(C) Members of the commission and members of subcommittees 38678
appointed under division (B) of section 4112.13 of the Revised 38679
Code shall not be compensated, but shall be reimbursed for their 38680
necessary and actual expenses incurred in the performance of their 38681
official duties. 38682

(D)(1) The Ohio civil rights commission shall serve as the 38683
commission on African-American males' fiscal agent and shall 38684
perform all of the following services: 38685

(a) Prepare and process payroll and other personnel documents 38686
that the commission on African-American males approves; 38687

(b) Maintain ledgers of accounts and reports of account 38688
balances, and monitor budgets and allotment plans in consultation 38689
with the commission on African-American males; 38690

(c) Perform other routine support services that the executive 38691

director of the Ohio civil rights commission or the executive 38692
director's designee and the Commission on African-American males 38693
or its designee consider appropriate to achieve efficiency. 38694

(2) The Ohio civil rights commission shall not approve any 38695
payroll or other personnel-related documents or any biennial 38696
budget, grant, expenditure, audit, or fiscal-related document 38697
without the advice and consent of the commission on 38698
African-American males. 38699

(3) The Ohio civil rights commission shall determine fees to 38700
be charged to the commission on African-American males for 38701
services performed under this division, which shall be in 38702
proportion to the services performed for the commission on 38703
African-American males. 38704

(4) The commission on African-American males or its designee 38705
has: 38706

(a) Sole authority to draw funds for any federal program in 38707
which the commission is authorized to participate; 38708

(b) Sole authority to expend funds from accounts for programs 38709
and any other necessary expenses the commission on 38710
African-American males may incur; 38711

(c) The duty to cooperate with the Ohio civil rights 38712
commission to ensure that the Ohio civil rights commission is 38713
fully apprised of all financial transactions. 38714

(E) The commission on African-American males shall appoint an 38715
executive director, who shall be in the unclassified civil 38716
service. The executive director shall supervise the commission's 38717
activities and report to the commission on the progress of those 38718
activities. The executive director shall do all things necessary 38719
for the efficient and effective implementation of the duties of 38720
the commission. 38721

The responsibilities assigned to the executive director do 38722
not relieve the members of the commission from final 38723
responsibility for the proper performance of the requirements of 38724
this division. 38725

(F) The commission on African-American males shall: 38726

(1) Employ, promote, supervise, and remove all employees, as 38727
needed, in connection with the performance of its duties under 38728
this section; 38729

(2) Maintain its office in Columbus; 38730

(3) Acquire facilities, equipment, and supplies necessary to 38731
house the commission, its employees, and files and records under 38732
its control, and to discharge any duty imposed upon it by law. The 38733
expense of these acquisitions shall be audited and paid for in the 38734
same manner as other state expenses. 38735

(4) Prepare and submit to the office of budget and management 38736
a budget for each biennium in accordance with sections 101.55 and 38737
107.03 of the Revised Code. The budget submitted shall cover the 38738
costs of the commission and its staff in the discharge of any duty 38739
imposed upon the commission by law. The commission shall pay its 38740
own payroll and other operating expenses from appropriation items 38741
designated by the general assembly. The commission shall not 38742
delegate any authority to obligate funds. 38743

(5) Establish the overall policy and management of the 38744
commission in accordance with this chapter; 38745

(6) Follow all state procurement requirements; 38746

(7) Pay fees owed to the Ohio civil rights commission under 38747
division (D) of this section from the commission on 38748
African-American males' general revenue fund or from any other 38749
fund from which the operating expenses of the commission on 38750
African-American males are paid. Any amounts set aside for a 38751

fiscal year for the payment of such fees shall be used only for 38752
the services performed for the commission on African-American 38753
males by the Ohio civil rights commission in that fiscal year. 38754

(G) The commission on African-American males may: 38755

(1) Hold sessions at any place within the state; 38756

(2) Establish, change, or abolish positions, and assign and 38757
reassign duties and responsibilities of any employee of the 38758
commission on African-American males as necessary to achieve the 38759
most efficient performance of its functions. 38760

Sec. 4117.03. (A) Public employees have the right to: 38761

(1) Form, join, assist, or participate in, or refrain from 38762
forming, joining, assisting, or participating in, except as 38763
otherwise provided in Chapter 4117. of the Revised Code, any 38764
employee organization of their own choosing; 38765

(2) Engage in other concerted activities for the purpose of 38766
collective bargaining or other mutual aid and protection; 38767

(3) Representation by an employee organization; 38768

(4) Bargain collectively with their public employers to 38769
determine wages, hours, terms and other conditions of employment 38770
and the continuation, modification, or deletion of an existing 38771
provision of a collective bargaining agreement, and enter into 38772
collective bargaining agreements; 38773

(5) Present grievances and have them adjusted, without the 38774
intervention of the bargaining representative, as long as the 38775
adjustment is not inconsistent with the terms of the collective 38776
bargaining agreement then in effect and as long as the bargaining 38777
representatives have the opportunity to be present at the 38778
adjustment. 38779

(B) Persons on active duty or acting in any capacity as 38780

members of the organized militia do not have collective bargaining 38781
rights. 38782

(C) Except as provided in division (D) of this section, 38783
nothing in Chapter 4117. of the Revised Code prohibits public 38784
employers from electing to engage in collective bargaining, to 38785
meet and confer, to hold discussions, or to engage in any other 38786
form of collective negotiations with public employees who are not 38787
subject to Chapter 4117. of the Revised Code pursuant to division 38788
(C) of section 4117.01 of the Revised Code. 38789

(D) A public employer shall not engage in collective 38790
bargaining or other forms of collective negotiations with the 38791
employees of county boards of elections referred to in division 38792
(C)(12) of section 4117.01 of the Revised Code. 38793

(E)(1) Employees of public school may bargain collectively 38794
for life and health care benefits; however, all life and health 38795
care benefits shall be provided through school employees health 38796
care board life and medical plans, in accordance with section 38797
9.901 of the Revised Code. If a school district provides its 38798
employees with life or health care benefits pursuant to collective 38799
bargaining, the employees shall be permitted to choose a plan 38800
option from among the school employees health care board plans 38801
agreed to during collective bargaining. 38802

(2) During collective bargaining, employees of public schools 38803
may agree to pay a higher percentage of the premium for life and 38804
health benefit coverage under the plans designed by the school 38805
employees health care board pursuant to section 9.901 of the 38806
Revised Code than the percentage designated as the employees' 38807
contribution level by the board. A collective bargaining 38808
agreement, however, shall not permit the employees to contribute a 38809
lesser percentage of the premium than that set as the employees' 38810
contribution level by the school employees health care board. The 38811

total premium paid by the participating school board to the school 38812
employees health care board for coverage under any of the board's 38813
life and health benefit plans shall not be affected by the 38814
collective bargaining agreement. 38815

Sec. 4117.08. (A) All matters pertaining to wages, hours, or 38816
terms and other conditions of employment and the continuation, 38817
modification, or deletion of an existing provision of a collective 38818
bargaining agreement are subject to collective bargaining between 38819
the public employer and the exclusive representative, except as 38820
otherwise specified in this section and division (E) of section 38821
4117.03 of the Revised Code. 38822

(B) The conduct and grading of civil service examinations, 38823
the rating of candidates, the establishment of eligible lists from 38824
the examinations, and the original appointments from the eligible 38825
lists are not appropriate subjects for collective bargaining. 38826

(C) Unless a public employer agrees otherwise in a collective 38827
bargaining agreement, nothing in Chapter 4117. of the Revised Code 38828
impairs the right and responsibility of each public employer to: 38829

(1) Determine matters of inherent managerial policy which 38830
include, but are not limited to areas of discretion or policy such 38831
as the functions and programs of the public employer, standards of 38832
services, its overall budget, utilization of technology, and 38833
organizational structure; 38834

(2) Direct, supervise, evaluate, or hire employees; 38835

(3) Maintain and improve the efficiency and effectiveness of 38836
governmental operations; 38837

(4) Determine the overall methods, process, means, or 38838
personnel by which governmental operations are to be conducted; 38839

(5) Suspend, discipline, demote, or discharge for just cause, 38840
or lay off, transfer, assign, schedule, promote, or retain 38841

employees;	38842
(6) Determine the adequacy of the work force;	38843
(7) Determine the overall mission of the employer as a unit of government;	38844 38845
(8) Effectively manage the work force;	38846
(9) Take actions to carry out the mission of the public employer as a governmental unit.	38847 38848
The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement.	38849 38850 38851 38852 38853 38854 38855
Sec. 4117.24. The training and , publications, <u>and grants</u> fund is hereby created in the state treasury. The state employment relations board shall deposit into the training and , publications, <u>and grants</u> fund all payments <u>moneys received from the following</u> <u>sources:</u>	38856 38857 38858 38859 38860
(A) <u>Payments</u> received by the board for copies of documents, rulebooks, and other publications; fees	38861 38862
(B) <u>Fees</u> received from seminar participants; and receipts	38863
(C) <u>Receipts</u> from the sale of clearinghouse data;	38864
(D) <u>Moneys received from grants, donations, awards, bequests,</u> <u>gifts, reimbursements, and similar funds;</u>	38865 38866
(E) <u>Reimbursement received for professional services and</u> <u>expenses related to professional services;</u>	38867 38868
(F) <u>Funds received to support the development of labor</u>	38869

relations services and programs. The state employment relations 38870
board shall use all moneys deposited into the training and, 38871
publications, and grants fund to defray the costs of furnishing 38872
and making available copies of documents, rulebooks, and other 38873
publications; the costs of planning, organizing, and conducting 38874
training seminars; the costs associated with grant projects, 38875
innovative labor-management cooperation programs, research 38876
projects related to these grants and programs, and the advancement 38877
in professionalism of public sector relations; the professional 38878
development of board employees; and the costs of compiling 38879
clearinghouse data. 38880

The board may seek, solicit, apply for, receive, and accept 38881
grants, gifts, and contributions of money, property, labor, and 38882
other things of value to be held for, used for, and applied to 38883
only the purpose for which the grants, gifts, and contributions 38884
are made, from individuals, private and public corporations, the 38885
United States or any agency thereof, the state or any agency 38886
thereof, and any political subdivision of the state, and may enter 38887
into any contract with any such public or private source in 38888
connection therewith to be held for, used for, and applied to only 38889
the purposes for which such grants are made and contracts are 38890
entered into, all subject to and in accordance with the purposes 38891
of this chapter. Any money received from the grants, gifts, 38892
contributions, or contracts shall be deposited into the training, 38893
publications, and grants fund. 38894

Sec. 4123.27. Information contained in the annual statement 38895
provided for in section 4123.26 of the Revised Code, and such 38896
other information as may be furnished to the bureau of workers' 38897
compensation by employers in pursuance of that section, is for the 38898
exclusive use and information of the bureau in the discharge of 38899
its official duties, and shall not be open to the public nor be 38900

used in any court in any action or proceeding pending therein 38901
unless the bureau is a party to the action or proceeding; but the 38902
information contained in the statement may be tabulated and 38903
published by the bureau in statistical form for the use and 38904
information of other state departments and the public. No person 38905
in the employ of the bureau, except those who are authorized by 38906
the administrator of workers' compensation, shall divulge any 38907
information secured by the person while in the employ of the 38908
bureau in respect to the transactions, property, claim files, 38909
records, or papers of the bureau or in respect to the business or 38910
mechanical, chemical, or other industrial process of any company, 38911
firm, corporation, person, association, partnership, or public 38912
utility to any person other than the administrator or to the 38913
superior of such employee of the bureau. 38914

Notwithstanding the restrictions imposed by this section, the 38915
governor, select or standing committees of the general assembly, 38916
the auditor of state, the attorney general, or their designees, 38917
pursuant to the authority granted in this chapter and Chapter 38918
4121. of the Revised Code, may examine any records, claim files, 38919
or papers in possession of the industrial commission or the 38920
bureau. They also are bound by the privilege that attaches to 38921
these papers. 38922

The administrator shall report to the director of job and 38923
family services or to the county director of job and family 38924
services the name, address, and social security number or other 38925
identification number of any person receiving workers' 38926
compensation whose name or social security number or other 38927
identification number is the same as that of a person required by 38928
a court or child support enforcement agency to provide support 38929
payments to a recipient or participant of public assistance, and 38930
whose name is submitted to the administrator by the director under 38931
section 5101.36 of the Revised Code. The administrator also shall 38932

inform the director of the amount of workers' compensation paid to 38933
the person during such period as the director specifies. 38934

Within fourteen days after receiving from the director of job 38935
and family services a list of the names and social security 38936
numbers of recipients or participants of public assistance 38937
pursuant to section 5101.181 of the Revised Code, the 38938
administrator shall inform the auditor of state of the name, 38939
current or most recent address, and social security number of each 38940
person receiving workers' compensation pursuant to this chapter 38941
whose name and social security number are the same as that of a 38942
person whose name or social security number was submitted by the 38943
director. The administrator also shall inform the auditor of state 38944
of the amount of workers' compensation paid to the person during 38945
such period as the director specifies. 38946

The bureau and its employees, except for purposes of 38947
furnishing the auditor of state with information required by this 38948
section, shall preserve the confidentiality of recipients or 38949
participants of public assistance in compliance with division (A) 38950
of section 5101.181 of the Revised Code. 38951

For the purposes of this section, "public assistance" means 38952
medical assistance provided through the medical assistance program 38953
established under section 5111.01 of the Revised Code, Ohio works 38954
first provided under Chapter 5107. of the Revised Code, 38955
prevention, retention, and contingency benefits and services 38956
provided under Chapter 5108. of the Revised Code, or disability 38957
financial assistance provided under Chapter 5115. of the Revised 38958
Code, ~~or disability medical assistance provided under Chapter~~ 38959
~~5115. of the Revised Code.~~ 38960

Sec. 4141.29. Each eligible individual shall receive benefits 38961
as compensation for loss of remuneration due to involuntary total 38962
or partial unemployment in the amounts and subject to the 38963

conditions stipulated in this chapter.	38964
(A) No individual is entitled to a waiting period or benefits for any week unless the individual:	38965
(1) Has filed a valid application for determination of benefit rights in accordance with section 4141.28 of the Revised Code;	38966
(2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code;	38967
(3) Has registered at an employment office or other registration place maintained or designated by the director of job and family services. Registration shall be made in accordance with the time limits, frequency, and manner prescribed by the director.	38968
(4)(a)(i) Is able to work and available for suitable work and, except as provided in division (A)(4)(a)(ii) of this section, is actively seeking suitable work either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual leaves that locality, then in a locality where suitable work normally is performed.	38969
(ii) The director may waive the requirement that a claimant be actively seeking work when the director finds that either of the following is true:	38970
(I) The individual's unemployment is directly attributable to a major disaster declared by the president of the United States pursuant to the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121, and the employer whose operation was adversely affected by the disaster, requests a waiver from the director for the individual to be exempt from the requirement to actively seek suitable work;	38971
(II) The individual has been laid off and the employer who	38972

laid the individual off has notified the director within ten days 38994
after the layoff, that work is expected to be available for the 38995
individual within a specified number of days not to exceed 38996
forty-five calendar days following the last day the individual 38997
worked. In the event the individual is not recalled within the 38998
specified period, this waiver shall cease to be operative with 38999
respect to that layoff. 39000

(b) The individual shall be instructed as to the efforts that 39001
the individual must make in the search for suitable work, except 39002
where the active search for work requirement has been waived under 39003
division (A)(4)(a) of this section, and shall keep a record of 39004
where and when the individual has sought work in complying with 39005
those instructions and, upon request, shall produce that record 39006
for examination by the director. 39007

(c) An individual who is attending a training course approved 39008
by the director meets the requirement of this division, if 39009
attendance was recommended by the director and the individual is 39010
regularly attending the course and is making satisfactory 39011
progress. An individual also meets the requirements of this 39012
division if the individual is participating and advancing in a 39013
training program, as defined in division (P) of section 5709.61 of 39014
the Revised Code, and if an enterprise, defined in division (B) of 39015
section 5709.61 of the Revised Code, is paying all or part of the 39016
cost of the individual's participation in the training program 39017
with the intention of hiring the individual for employment as a 39018
new employee, as defined in division (L) of section 5709.61 of the 39019
Revised Code, for at least ninety days after the individual's 39020
completion of the training program. 39021

(d) An individual who becomes unemployed while attending a 39022
regularly established school and whose base period qualifying 39023
weeks were earned in whole or in part while attending that school, 39024
meets the availability and active search for work requirements of 39025

division (A)(4)(a) of this section if the individual regularly
attends the school during weeks with respect to which the
individual claims unemployment benefits and makes self available
on any shift of hours for suitable employment with the
individual's most recent employer or any other employer in the
individual's base period, or for any other suitable employment to
which the individual is directed, under this chapter.

(e) The director shall adopt any rules that the director
deems necessary for the administration of division (A)(4) of this
section.

(f) Notwithstanding any other provisions of this section, no
otherwise eligible individual shall be denied benefits for any
week because the individual is in training approved under section
236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A.
2296, nor shall that individual be denied benefits by reason of
leaving work to enter such training, provided the work left is not
suitable employment, or because of the application to any week in
training of provisions in this chapter, or any applicable federal
unemployment compensation law, relating to availability for work,
active search for work, or refusal to accept work.

For the purposes of division (A)(4)(f) of this section,
"suitable employment" means with respect to an individual, work of
a substantially equal or higher skill level than the individual's
past adversely affected employment, as defined for the purposes of
the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and
wages for such work at not less than eighty per cent of the
individual's average weekly wage as determined for the purposes of
that federal act.

(5) Is unable to obtain suitable work. An individual who is
provided temporary work assignments by the individual's employer
under agreed terms and conditions of employment, and who is

required pursuant to those terms and conditions to inquire with 39057
the individual's employer for available work assignments upon the 39058
conclusion of each work assignment, is not considered unable to 39059
obtain suitable employment if suitable work assignments are 39060
available with the employer but the individual fails to contact 39061
the employer to inquire about work assignments. 39062

(6) Participates in reemployment services, such as job search 39063
assistance services, if the individual has been determined to be 39064
likely to exhaust benefits under this chapter, including 39065
compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than 39066
extended compensation, and needs reemployment services pursuant to 39067
the profiling system established by the director under division 39068
(K) of this section, unless the director determines that: 39069

(a) The individual has completed such services; or 39070

(b) There is justifiable cause for the claimant's failure to 39071
participate in such services. 39072

(B) An individual suffering total or partial unemployment is 39073
eligible for benefits for unemployment occurring subsequent to a 39074
waiting period of one week and no benefits shall be payable during 39075
this required waiting period, except when the unemployment during 39076
this waiting period is directly attributable to a major disaster 39077
declared by the president of the United States pursuant to the 39078
"Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C. 5121. Not 39079
more than one week of waiting period shall be required of any 39080
individual in any benefit year in order to establish the 39081
individual's eligibility for total or partial unemployment 39082
benefits. 39083

(C) The waiting period for total or partial unemployment 39084
shall commence on the first day of the first week with respect to 39085
which the individual first files a claim for benefits at an 39086
employment office or other place of registration maintained or 39087

designated by the director or on the first day of the first week 39088
with respect to which the individual has otherwise filed a claim 39089
for benefits in accordance with the rules of the department of job 39090
and family services, provided such claim is allowed by the 39091
director. 39092

(D) Notwithstanding division (A) of this section, no 39093
individual may serve a waiting period or be paid benefits under 39094
the following conditions: 39095

(1) For any week with respect to which the director finds 39096
that: 39097

(a) The individual's unemployment was due to a labor dispute 39098
other than a lockout at any factory, establishment, or other 39099
premises located in this or any other state and owned or operated 39100
by the employer by which the individual is or was last employed; 39101
and for so long as the individual's unemployment is due to such 39102
labor dispute. No individual shall be disqualified under this 39103
provision if either of the following applies: 39104

(i) The individual's employment was with such employer at any 39105
factory, establishment, or premises located in this state, owned 39106
or operated by such employer, other than the factory, 39107
establishment, or premises at which the labor dispute exists, if 39108
it is shown that the individual is not financing, participating 39109
in, or directly interested in such labor dispute; 39110

(ii) The individual's employment was with an employer not 39111
involved in the labor dispute but whose place of business was 39112
located within the same premises as the employer engaged in the 39113
dispute, unless the individual's employer is a wholly owned 39114
subsidiary of the employer engaged in the dispute, or unless the 39115
individual actively participates in or voluntarily stops work 39116
because of such dispute. If it is established that the claimant 39117
was laid off for an indefinite period and not recalled to work 39118

prior to the dispute, or was separated by the employer prior to 39119
the dispute for reasons other than the labor dispute, or that the 39120
individual obtained a bona fide job with another employer while 39121
the dispute was still in progress, such labor dispute shall not 39122
render the employee ineligible for benefits. 39123

(b) The individual has been given a disciplinary layoff for 39124
misconduct in connection with the individual's work. 39125

(2) For the duration of the individual's unemployment if the 39126
director finds that: 39127

(a) The individual quit work without just cause or has been 39128
discharged for just cause in connection with the individual's 39129
work, provided division (D)(2) of this section does not apply to 39130
the separation of a person under any of the following 39131
circumstances: 39132

(i) Separation from employment for the purpose of entering 39133
the armed forces of the United States if the individual makes 39134
application to enter, or is inducted into the armed forces within 39135
thirty days after such separation; 39136

(ii) Separation from employment pursuant to a 39137
labor-management contract or agreement, or pursuant to an 39138
established employer plan, program, or policy, which permits the 39139
employee, because of lack of work, to accept a separation from 39140
employment; 39141

(iii) The individual has left employment to accept a recall 39142
from a prior employer or, except as provided in division 39143
(D)(2)(a)(iv) of this section, to accept other employment as 39144
provided under section 4141.291 of the Revised Code, or left or 39145
was separated from employment that was concurrent employment at 39146
the time of the most recent separation or within six weeks prior 39147
to the most recent separation where the remuneration, hours, or 39148
other conditions of such concurrent employment were substantially 39149

less favorable than the individual's most recent employment and 39150
where such employment, if offered as new work, would be considered 39151
not suitable under the provisions of divisions (E) and (F) of this 39152
section. Any benefits that would otherwise be chargeable to the 39153
account of the employer from whom an individual has left 39154
employment or was separated from employment that was concurrent 39155
employment under conditions described in division (D)(2)(a)(iii) 39156
of this section, shall instead be charged to the mutualized 39157
account created by division (B) of section 4141.25 of the Revised 39158
Code, except that any benefits chargeable to the account of a 39159
reimbursing employer under division (D)(2)(a)(iii) of this section 39160
shall be charged to the account of the reimbursing employer and 39161
not to the mutualized account, except as provided in division 39162
(D)(2) of section 4141.24 of the Revised Code. 39163

(iv) When an individual has been issued a definite layoff 39164
date by the individual's employer and before the layoff date, the 39165
individual quits to accept other employment, the provisions of 39166
division (D)(2)(a)(iii) of this section apply and no 39167
disqualification shall be imposed under division (D) of this 39168
section. However, if the individual fails to meet the employment 39169
and earnings requirements of division (A)(2) of section 4141.291 39170
of the Revised Code, then the individual, pursuant to division 39171
(A)(5) of this section, shall be ineligible for benefits for any 39172
week of unemployment that occurs prior to the layoff date. 39173

(b) The individual has refused without good cause to accept 39174
an offer of suitable work when made by an employer either in 39175
person or to the individual's last known address, or has refused 39176
or failed to investigate a referral to suitable work when directed 39177
to do so by a local employment office of this state or another 39178
state, provided that this division shall not cause a 39179
disqualification for a waiting week or benefits under the 39180
following circumstances: 39181

(i) When work is offered by the individual's employer and the individual is not required to accept the offer pursuant to the terms of the labor-management contract or agreement; or

(ii) When the individual is attending a vocational training course pursuant to division (A)(4) of this section except, in the event of a refusal to accept an offer of suitable work or a refusal or failure to investigate a referral, benefits thereafter paid to such individual shall not be charged to the account of any employer and, except as provided in division (B)(1)(b) of section 4141.241 of the Revised Code, shall be charged to the mutualized account as provided in division (B) of section 4141.25 of the Revised Code.

(c) Such individual quit work to marry or because of marital, parental, filial, or other domestic obligations.

(d) The individual has knowingly made a false statement or representation or knowingly failed to report any material fact with the object of obtaining benefits to which the individual is not entitled.

(e) The individual became unemployed by reason of commitment to any correctional institution.

(f) The individual became unemployed because of dishonesty in connection with the individual's most recent or any base period work. Remuneration earned in such work shall be excluded from the individual's total base period remuneration and qualifying weeks that otherwise would be credited to the individual for such work in the individual's base period shall not be credited for the purpose of determining the total benefits to which the individual is eligible and the weekly benefit amount to be paid under section 4141.30 of the Revised Code. Such excluded remuneration and noncredited qualifying weeks shall be excluded from the calculation of the maximum amount to be charged, under division

(D) of section 4141.24 and section 4141.33 of the Revised Code, 39213
against the accounts of the individual's base period employers. In 39214
addition, no benefits shall thereafter be paid to the individual 39215
based upon such excluded remuneration or noncredited qualifying 39216
weeks. 39217

For purposes of division (D)(2)(f) of this section, 39218
"dishonesty" means the commission of substantive theft, fraud, or 39219
deceitful acts. 39220

(E) No individual otherwise qualified to receive benefits 39221
shall lose the right to benefits by reason of a refusal to accept 39222
new work if: 39223

(1) As a condition of being so employed the individual would 39224
be required to join a company union, or to resign from or refrain 39225
from joining any bona fide labor organization, or would be denied 39226
the right to retain membership in and observe the lawful rules of 39227
any such organization. 39228

(2) The position offered is vacant due directly to a strike, 39229
lockout, or other labor dispute. 39230

(3) The work is at an unreasonable distance from the 39231
individual's residence, having regard to the character of the work 39232
the individual has been accustomed to do, and travel to the place 39233
of work involves expenses substantially greater than that required 39234
for the individual's former work, unless the expense is provided 39235
for. 39236

(4) The remuneration, hours, or other conditions of the work 39237
offered are substantially less favorable to the individual than 39238
those prevailing for similar work in the locality. 39239

(F) Subject to the special exceptions contained in division 39240
(A)(4)(f) of this section and section 4141.301 of the Revised 39241
Code, in determining whether any work is suitable for a claimant 39242

in the administration of this chapter, the director, in addition 39243
to the determination required under division (E) of this section, 39244
shall consider the degree of risk to the claimant's health, 39245
safety, and morals, the individual's physical fitness for the 39246
work, the individual's prior training and experience, the length 39247
of the individual's unemployment, the distance of the available 39248
work from the individual's residence, and the individual's 39249
prospects for obtaining local work. 39250

(G) The "duration of unemployment" as used in this section 39251
means the full period of unemployment next ensuing after a 39252
separation from any base period or subsequent work and until an 39253
individual has become reemployed in employment subject to this 39254
chapter, or the unemployment compensation act of another state, or 39255
of the United States, and until such individual has worked six 39256
weeks and for those weeks has earned or been paid remuneration 39257
equal to six times an average weekly wage of not less than: 39258
eighty-five dollars and ten cents per week beginning on June 26, 39259
1990; and beginning on and after January 1, 1992, twenty-seven and 39260
one-half per cent of the statewide average weekly wage as computed 39261
each first day of January under division (B)(3) of section 4141.30 39262
of the Revised Code, rounded down to the nearest dollar, except 39263
for purposes of division (D)(2)(c) of this section, such term 39264
means the full period of unemployment next ensuing after a 39265
separation from such work and until such individual has become 39266
reemployed subject to the terms set forth above, and has earned 39267
wages equal to one-half of the individual's average weekly wage or 39268
sixty dollars, whichever is less. 39269

(H) If a claimant is disqualified under division (D)(2)(a), 39270
(c), or (e) of this section or found to be qualified under the 39271
exceptions provided in division (D)(2)(a)(i), (iii), or (iv) of 39272
this section or division (A)(2) of section 4141.291 of the Revised 39273
Code, then benefits that may become payable to such claimant, 39274

which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer, except as provided in division (D)(2) of section 4141.24 of the Revised Code. In the case of a reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code.

(I)(1) Benefits based on service in employment as provided in divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that after December 31, 1977:

(a) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education, as defined in division (Y) of section 4141.01 of the Revised Code; or for an educational institution as defined in division (CC) of section 4141.01 of the Revised Code, shall not be paid to any individual for any week of unemployment that begins during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of those academic years or terms and has a contract or a reasonable assurance that the individual will perform services in any such capacity for any such institution in the second of those academic years or terms.

(b) Benefits based on service for an educational institution or an institution of higher education in other than an

instructional, research, or principal administrative capacity, 39307
shall not be paid to any individual for any week of unemployment 39308
which begins during the period between two successive academic 39309
years or terms of the employing educational institution or 39310
institution of higher education, provided the individual performed 39311
those services for the educational institution or institution of 39312
higher education during the first such academic year or term and, 39313
there is a reasonable assurance that such individual will perform 39314
those services for any educational institution or institution of 39315
higher education in the second of such academic years or terms. 39316

An individual whose transportation staff position with a 39317
school district has been terminated pursuant to section 3319.0810 39318
of the Revised Code effective at the end of any academic year or 39319
term has a reasonable assurance of performing services in the next 39320
succeeding academic year or term for an educational institution, 39321
an institution of higher education, or an educational service 39322
agency, as defined in division (I)(1)(d) of this section, or for a 39323
nonpublic employer that provides transportation services under 39324
contract with the school district under section 3319.0810 of the 39325
Revised Code. Therefore, such an individual is not entitled to 39326
benefits under this chapter during the period between the academic 39327
year or term in which the individual's position was terminated and 39328
the next succeeding academic year or term unless the individual is 39329
not offered an opportunity to perform those services for such 39330
entities in the next succeeding academic year or term. 39331

If compensation is denied to any individual for any week 39332
under division (I)(1)(b) of this section and the individual was 39333
not offered an opportunity to perform those services for an 39334
institution of higher education or for an educational institution 39335
for the second of such academic years or terms, the individual is 39336
entitled to a retroactive payment of compensation for each week 39337
for which the individual timely filed a claim for compensation and 39338

for which compensation was denied solely by reason of division 39339
(I)(1)(b) of this section. An application for retroactive benefits 39340
shall be timely filed if received by the director or the 39341
director's deputy within or prior to the end of the fourth full 39342
calendar week after the end of the period for which benefits were 39343
denied because of reasonable assurance of employment. The 39344
provision for the payment of retroactive benefits under division 39345
(I)(1)(b) of this section is applicable to weeks of unemployment 39346
beginning on and after November 18, 1983. The provisions under 39347
division (I)(1)(b) of this section shall be retroactive to 39348
September 5, 1982, only if, as a condition for full tax credit 39349
against the tax imposed by the "Federal Unemployment Tax Act," 53 39350
Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States 39351
secretary of labor determines that retroactivity is required by 39352
federal law. 39353

(c) With respect to weeks of unemployment beginning after 39354
December 31, 1977, benefits shall be denied to any individual for 39355
any week which commences during an established and customary 39356
vacation period or holiday recess, if the individual performs any 39357
services described in divisions (I)(1)(a) and (b) of this section 39358
in the period immediately before the vacation period or holiday 39359
recess, and there is a reasonable assurance that the individual 39360
will perform any such services in the period immediately following 39361
the vacation period or holiday recess. 39362

(d) With respect to any services described in division 39363
(I)(1)(a), (b), or (c) of this section, benefits payable on the 39364
basis of services in any such capacity shall be denied as 39365
specified in division (I)(1)(a), (b), or (c) of this section to 39366
any individual who performs such services in an educational 39367
institution or institution of higher education while in the employ 39368
of an educational service agency. For this purpose, the term 39369
"educational service agency" means a governmental agency or 39370

governmental entity that is established and operated exclusively 39371
for the purpose of providing services to one or more educational 39372
institutions or one or more institutions of higher education. 39373

(e) Any individual employed by a public school district or a 39374
county board of mental retardation shall be notified by the 39375
thirtieth day of April each year if the individual is not to be 39376
reemployed the following academic year. 39377

(2) No disqualification will be imposed, between academic 39378
years or terms or during a vacation period or holiday recess under 39379
this division, unless the director or the director's deputy has 39380
received a statement in writing from the educational institution 39381
or institution of higher education that the claimant has a 39382
contract for, or a reasonable assurance of, reemployment for the 39383
ensuing academic year or term. 39384

(3) If an individual has employment with an educational 39385
institution or an institution of higher education and employment 39386
with a noneducational employer, during the base period of the 39387
individual's benefit year, then the individual may become eligible 39388
for benefits during the between-term, or vacation or holiday 39389
recess, disqualification period, based on employment performed for 39390
the noneducational employer, provided that the employment is 39391
sufficient to qualify the individual for benefit rights separately 39392
from the benefit rights based on school employment. The weekly 39393
benefit amount and maximum benefits payable during a 39394
disqualification period shall be computed based solely on the 39395
nonschool employment. 39396

(J) Benefits shall not be paid on the basis of employment 39397
performed by an alien, unless the alien had been lawfully admitted 39398
to the United States for permanent residence at the time the 39399
services were performed, was lawfully present for purposes of 39400
performing the services, or was otherwise permanently residing in 39401

the United States under color of law at the time the services were performed, under section 212(d)(5) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101:

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence that the individual had not, in fact, been lawfully admitted to the United States.

(K) The director shall establish and utilize a system of profiling all new claimants under this chapter that:

(1) Identifies which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(2) Refers claimants identified pursuant to division (K)(1) of this section to reemployment services, such as job search assistance services, available under any state or federal law;

(3) Collects follow-up information relating to the services received by such claimants and the employment outcomes for such claimant's subsequent to receiving such services and utilizes such information in making identifications pursuant to division (K)(1) of this section; and

(4) Meets such other requirements as the United States secretary of labor determines are appropriate.

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in 39432
this state, including the manufacture, importation, and sale of 39433
beer and intoxicating liquor; 39434

(2) Grant or refuse permits for the manufacture, 39435
distribution, transportation, and sale of beer and intoxicating 39436
liquor and the sale of alcohol, as authorized or required by this 39437
chapter and Chapter 4303. of the Revised Code. A certificate, 39438
signed by the superintendent of liquor control and to which is 39439
affixed the official seal of the division, stating that it appears 39440
from the records of the division that no permit has been issued to 39441
the person specified in the certificate, or that a permit, if 39442
issued, has been revoked, canceled, or suspended, shall be 39443
received as prima-facie evidence of the facts recited in the 39444
certificate in any court or before any officer of this state. 39445

(3) Put into operation, manage, and control a system of state 39446
liquor stores for the sale of spirituous liquor at retail and to 39447
holders of permits authorizing the sale of spirituous liquor; 39448
however, the division shall not establish any drive-in state 39449
liquor stores; and by means of those types of stores, and any 39450
manufacturing plants, distributing and bottling plants, 39451
warehouses, and other facilities that it considers expedient, 39452
establish and maintain a state monopoly of the distribution of 39453
spirituous liquor and its sale in packages or containers; and for 39454
that purpose, manufacture, buy, import, possess, and sell 39455
spirituous liquors as provided in this chapter and Chapter 4303. 39456
of the Revised Code, and in the rules promulgated by the 39457
superintendent of liquor control pursuant to those chapters; lease 39458
or in any manner acquire the use of any land or building required 39459
for any of those purposes; purchase any equipment that is 39460
required; and borrow money to carry on its business, and issue, 39461
sign, endorse, and accept notes, checks, and bills of exchange; 39462
but all obligations of the division created under authority of 39463

this division shall be a charge only upon the moneys received by 39464
the division from the sale of spirituous liquor and its other 39465
business transactions in connection with the sale of spirituous 39466
liquor, and shall not be general obligations of the state; 39467

(4) Enforce the administrative provisions of this chapter and 39468
Chapter 4303. of the Revised Code, and the rules and orders of the 39469
liquor control commission and the superintendent relating to the 39470
manufacture, importation, transportation, distribution, and sale 39471
of beer ~~and or~~ intoxicating ~~liquors~~ liquor. The attorney general, 39472
any prosecuting attorney, and any prosecuting officer of a 39473
municipal corporation or a municipal court shall, at the request 39474
of the division of liquor control or the department of public 39475
safety, prosecute any person charged with the violation of any 39476
provision in those chapters or of any section of the Revised Code 39477
relating to the manufacture, importation, transportation, 39478
distribution, and sale of beer ~~and or~~ intoxicating liquor. 39479

(5) Determine the locations of all state liquor stores and 39480
manufacturing, distributing, and bottling plants required in 39481
connection with those stores, subject to this chapter and Chapter 39482
4303. of the Revised Code; 39483

(6) Conduct inspections of liquor permit premises to 39484
determine compliance with the administrative provisions of this 39485
chapter and Chapter 4303. of the Revised Code and the rules 39486
adopted under those provisions by the liquor control commission. 39487

Except as otherwise provided in division (A)(6) of this 39488
section, those inspections may be conducted only during those 39489
hours in which the permit holder is open for business and only by 39490
authorized agents or employees of the division or by any peace 39491
officer, as defined in section 2935.01 of the Revised Code. 39492
Inspections may be conducted at other hours only to determine 39493
compliance with laws or commission rules that regulate the hours 39494
of sale of beer ~~and or~~ intoxicating liquor and only if the 39495

investigator has reasonable cause to believe that those laws or 39496
rules are being violated. Any inspection conducted pursuant to 39497
division (A)(6) of this section is subject to all of the following 39498
requirements: 39499

(a) The only property that may be confiscated is contraband, 39500
as defined in section 2901.01 of the Revised Code, or property 39501
that is otherwise necessary for evidentiary purposes. 39502

(b) A complete inventory of all property confiscated from the 39503
premises shall be given to the permit holder or the permit 39504
holder's agent or employee by the confiscating agent or officer at 39505
the conclusion of the inspection. At that time, the inventory 39506
shall be signed by the confiscating agent or officer, and the 39507
agent or officer shall give the permit holder or the permit 39508
holder's agent or employee the opportunity to sign the inventory. 39509

(c) Inspections conducted pursuant to division (A)(6) of this 39510
section shall be conducted in a reasonable manner. A finding by 39511
any court of competent jurisdiction that ~~the~~ an inspection was not 39512
conducted in a reasonable manner in accordance with this section 39513
or any rules ~~promulgated~~ adopted by the commission may be 39514
considered grounds for suppression of evidence. A finding by the 39515
~~liquor control~~ commission that ~~the~~ an inspection was not conducted 39516
in a reasonable manner in accordance with this section or any 39517
rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered 39518
grounds for dismissal of the commission case. 39519

If any court of competent jurisdiction finds that property 39520
confiscated as the result of an administrative inspection is not 39521
necessary for evidentiary purposes and is not contraband, as 39522
defined in section 2901.01 of the Revised Code, the court shall 39523
order the immediate return of the confiscated property, provided 39524
that property is not otherwise subject to forfeiture, to the 39525
permit holder. However, the return of this property is not grounds 39526
for dismissal of the case. The commission likewise may order the 39527

return of confiscated property if no criminal prosecution is 39528
pending or anticipated. 39529

(7) Delegate to any of its agents or employees any power of 39530
investigation that the division possesses with respect to the 39531
enforcement of any of the administrative laws relating to beer ~~and~~ 39532
or intoxicating liquor, provided that this division does not 39533
authorize the division to designate any agent or employee to serve 39534
as an enforcement agent. The employment and designation of 39535
enforcement agents shall be within the exclusive authority of the 39536
director of public safety pursuant to sections 5502.13 to 5502.19 39537
of the Revised Code. 39538

(8) Collect the following fees: 39539

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 39540
each agent, solicitor, or salesperson, registered pursuant to 39541
section 4303.25 of the Revised Code, of a beer or intoxicating 39542
liquor manufacturer, supplier, broker, or wholesale distributor 39543
doing business in this state; 39544

(b) A fifty-dollar product registration fee for each new beer 39545
or intoxicating liquor product sold in this state. The product 39546
registration fee shall be accompanied by a copy of the federal 39547
label and product approval for the new product. 39548

(c) An annual three-hundred-dollar supplier registration fee 39549
from each manufacturer or supplier that produces and ships into 39550
this state, or ships into this state, intoxicating liquor or beer, 39551
in addition to an initial application fee of one hundred dollars. 39552

Each supplier, agent, solicitor, or salesperson registration 39553
issued under this division shall authorize the person named to 39554
carry on the activity specified in the registration. Each agent, 39555
solicitor, or salesperson registration is valid for two years or 39556
for the unexpired portion of a two-year registration period. Each 39557
supplier registration is valid for one year or for the unexpired 39558

portion of a one-year registration period. Registrations shall end 39559
on their respective uniform expiration date, which shall be 39560
designated by the division, and are subject to suspension, 39561
revocation, cancellation, or fine as authorized by this chapter 39562
and Chapter 4303. of the Revised Code. 39563

(9) Establish a system of electronic data interchange within 39564
the division and regulate the electronic transfer of information 39565
and funds among persons and governmental entities engaged in the 39566
manufacture, distribution, and retail sale of alcoholic beverages; 39567

(10) Exercise all other powers expressly or by necessary 39568
implication conferred upon the division by this chapter and 39569
Chapter 4303. of the Revised Code, and all powers necessary for 39570
the exercise or discharge of any power, duty, or function 39571
expressly conferred or imposed upon the division by those 39572
chapters. 39573

(B) The division may do all of the following: 39574

(1) Sue, but may be sued only in connection with the 39575
execution of leases of real estate and the purchases and contracts 39576
necessary for the operation of the state liquor stores that are 39577
made under this chapter and Chapter 4303. of the Revised Code; 39578

(2) Enter into leases and contracts of all descriptions and 39579
acquire and transfer title to personal property with regard to the 39580
sale, distribution, and storage of spirituous liquor within the 39581
state; 39582

(3) Terminate at will any lease entered into pursuant to 39583
division (B)(2) of this section upon first giving ninety days' 39584
notice in writing to the lessor of its intention to do so; 39585

(4) Fix the wholesale and retail prices at which the various 39586
classes, varieties, and brands of spirituous liquor shall be sold 39587
by the division. Those retail prices shall be the same at all 39588

state liquor stores, except to the extent that a price 39589
differential is required to collect a county sales tax levied 39590
pursuant to section 5739.021 of the Revised Code and for which tax 39591
the tax commissioner has authorized prepayment pursuant to section 39592
5739.05 of the Revised Code. In fixing selling prices, the 39593
division shall compute an anticipated gross profit at least 39594
sufficient to provide in each calendar year all costs and expenses 39595
of the division and also an adequate working capital reserve for 39596
the division. The gross profit shall not exceed forty per cent of 39597
the retail selling price based on costs of the division, and in 39598
addition the sum required by section 4301.12 of the Revised Code 39599
to be paid into the state treasury. An amount equal to one and 39600
one-half per cent of that gross profit shall be paid into the 39601
statewide treatment and prevention fund created by section 4301.30 39602
of the Revised Code and be appropriated by the general assembly 39603
from the fund to the department of alcohol and drug addiction 39604
services as provided in section 4301.30 of the Revised Code. 39605

On spirituous liquor manufactured in this state from the 39606
juice of grapes or fruits grown in this state, the division shall 39607
compute an anticipated gross profit of not to exceed ten per cent. 39608
The 39609

The wholesale prices fixed under this division shall be at a 39610
discount of not less than ~~twelve and one-half~~ six per cent of the 39611
retail selling prices as determined by the division in accordance 39612
with this section. 39613

(C) The division may approve the expansion or diminution of a 39614
premises to which a liquor permit has been issued and may adopt 39615
standards governing such an expansion or diminution. 39616

Sec. 4301.42. For the purpose of providing revenue for the 39617
support of the state, a tax is hereby levied on the sale of beer 39618
in sealed bottles and cans having twelve ounces or less of liquid 39619

content, at the rate of ~~fourteen~~ twenty-eight one-hundredths of 39620
one cent on each ounce of liquid content or fractional part of 39621
each ounce of liquid content, and on such containers in excess of 39622
twelve ounces, at the rate of ~~eighty-four~~ one and sixty-eight 39623
one-hundredths ~~of one cent~~ cents on each six ounces of liquid 39624
content or fractional part of each six ounces of liquid content. 39625
Sections 4307.01 to 4307.12 of the Revised Code apply in the 39626
administration of that tax. Manufacturers, bottlers, and canners 39627
of and wholesale dealers in beer have the duty to pay the tax 39628
imposed by this section and are entitled to the privileges in the 39629
manner provided in section 4303.33 of the Revised Code. 39630

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 39631
the Revised Code: 39632

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 39633
fluid ounces. 39634

(2) "Sale" or "sell" includes exchange, barter, gift, 39635
distribution, and, except with respect to A-4 permit holders, 39636
offer for sale. 39637

(B) For the purposes of providing revenues for the support of 39638
the state and encouraging the grape industries in the state, a tax 39639
is hereby levied on the sale or distribution of wine in Ohio, 39640
except for known sacramental purposes, at the rate of ~~thirty~~ sixty 39641
cents per wine gallon for wine containing not less than four per 39642
cent of alcohol by volume and not more than fourteen per cent of 39643
alcohol by volume, ~~ninety-eight~~ one dollar and ninety-six cents 39644
per wine gallon for wine containing more than fourteen per cent 39645
but not more than twenty-one per cent of alcohol by volume, ~~one~~ 39646
~~dollar~~ two dollars and ~~eight~~ sixteen cents per wine gallon for 39647
vermouth, and ~~one dollar~~ two dollars and ~~forty-eight~~ ninety-six 39648
cents per wine gallon for sparkling and carbonated wine and 39649

champagne, the tax to be paid by the holders of A-2 and B-5 39650
permits or by any other person selling or distributing wine upon 39651
which no tax has been paid. From the tax paid under this section 39652
on wine, vermouth, and sparkling and carbonated wine and 39653
champagne, the treasurer of state shall credit to the Ohio grape 39654
industries fund created under section 924.54 of the Revised Code a 39655
sum equal to one cent per gallon for each gallon upon which the 39656
tax is paid. 39657

(C) For the purpose of providing revenues for the support of 39658
the state, there is hereby levied a tax on prepared and bottled 39659
highballs, cocktails, cordials, and other mixed beverages at the 39660
rate of ~~one dollar~~ two dollars and ~~twenty~~ forty cents per wine 39661
gallon to be paid by holders of A-4 permits or by any other person 39662
selling or distributing those products upon which no tax has been 39663
paid. Only one sale of the same article shall be used in computing 39664
the amount of tax due. The tax on mixed beverages to be paid by 39665
holders of A-4 permits under this section shall not attach until 39666
the ownership of the mixed beverage is transferred for valuable 39667
consideration to a wholesaler or retailer, and no payment of the 39668
tax shall be required prior to that time. 39669

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 39670
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 39671
and sparkling and carbonated wine and champagne, the treasurer of 39672
state shall credit to the Ohio grape industries fund created under 39673
section 924.54 of the Revised Code a sum equal to two cents per 39674
gallon upon which the tax is paid. The amount credited under this 39675
division is in addition to the amount credited to the Ohio grape 39676
industries fund under division (B) of this section. 39677

(E) For the purpose of providing revenues for the support of 39678
the state, there is hereby levied a tax on cider at the rate of 39679
~~twenty-four~~ forty-eight cents per wine gallon to be paid by the 39680
holders of A-2 and B-5 permits or by any other person selling or 39681

distributing cider upon which no tax has been paid. Only one sale 39682
of the same article shall be used in computing the amount of the 39683
tax due. 39684

Sec. 4305.01. For the purpose of reimbursing the state for 39685
the expenses of administering Chapters 4301. and 4303. of the 39686
Revised Code and to provide revenues for the support of the state, 39687
a tax is hereby levied on the sale or distribution in this state 39688
of beer, whether in barrels or other containers, excepting in 39689
sealed bottles or cans, at the rate of ~~five~~ eleven dollars and 39690
~~fifty-eight~~ sixteen cents per barrel of thirty-one gallons. 39691

The tax commissioner shall exercise, with respect to the 39692
administration of the tax imposed by this section, all the powers 39693
and duties vested in or imposed by sections 4307.04 to 4307.07 of 39694
the Revised Code, so far as consistent with this section. 39695
Manufacturers and consignees of beer in barrels or other 39696
containers, excepting in sealed bottles or cans, and railroad 39697
companies, express companies, and other public carriers 39698
transporting shipments of such beer are subject, with respect to 39699
such tax, to the same duties and entitled to the same privileges 39700
as are required or permitted by those sections. 39701

The revenue derived from the tax on the sale and distribution 39702
of beer pursuant to this section and section 4301.42 of the 39703
Revised Code shall be for the use of the general revenue fund. 39704

The tax refund fund created by section 5703.052 of the 39705
Revised Code may be drawn upon by the tax commissioner for any 39706
refunds authorized to be made by the commissioner in sections 39707
4303.33, 4307.05, and 4307.07 of the Revised Code for beer. 39708

Sec. 4505.06. (A)(1) Application for a certificate of title 39709
shall be made in a form prescribed by the registrar of motor 39710
vehicles and shall be sworn to before a notary public or other 39711

officer empowered to administer oaths. The application shall be 39712
filed with the clerk of any court of common pleas. An application 39713
for a certificate of title may be filed electronically by any 39714
electronic means approved by the registrar in any county with the 39715
clerk of the court of common pleas of that county. Any payments 39716
required by this chapter shall be considered as accompanying any 39717
electronically transmitted application when payment actually is 39718
received by the clerk. Payment of any fee or taxes may be made by 39719
electronic transfer of funds. 39720

(2) The application for a certificate of title shall be 39721
accompanied by the fee prescribed in section 4505.09 of the 39722
Revised Code. The fee shall be retained by the clerk who issues 39723
the certificate of title and shall be distributed in accordance 39724
with that section. If a clerk of a court of common pleas, other 39725
than the clerk of the court of common pleas of an applicant's 39726
county of residence, issues a certificate of title to the 39727
applicant, the clerk shall transmit data related to the 39728
transaction to the automated title processing system. 39729

(3) If a certificate of title previously has been issued for 39730
a motor vehicle in this state, the application for a certificate 39731
of title also shall be accompanied by that certificate of title 39732
duly assigned, unless otherwise provided in this chapter. If a 39733
certificate of title previously has not been issued for the motor 39734
vehicle in this state, the application, unless otherwise provided 39735
in this chapter, shall be accompanied by a manufacturer's or 39736
importer's certificate or by a certificate of title of another 39737
state from which the motor vehicle was brought into this state. If 39738
the application refers to a motor vehicle last previously 39739
registered in another state, the application also shall be 39740
accompanied by the physical inspection certificate required by 39741
section 4505.061 of the Revised Code. If the application is made 39742
by two persons regarding a motor vehicle in which they wish to 39743

establish joint ownership with right of survivorship, they may do 39744
so as provided in section 2131.12 of the Revised Code. If the 39745
applicant requests a designation of the motor vehicle in 39746
beneficiary form so that upon the death of the owner of the motor 39747
vehicle, ownership of the motor vehicle will pass to a designated 39748
transfer-on-death beneficiary or beneficiaries, the applicant may 39749
do so as provided in section 2131.13 of the Revised Code. A person 39750
who establishes ownership of a motor vehicle that is transferable 39751
on death in accordance with section 2131.13 of the Revised Code 39752
may terminate that type of ownership or change the designation of 39753
the transfer-on-death beneficiary or beneficiaries by applying for 39754
a certificate of title pursuant to this section. The clerk shall 39755
retain the evidence of title presented by the applicant and on 39756
which the certificate of title is issued, except that, if an 39757
application for a certificate of title is filed electronically by 39758
an electronic motor vehicle dealer on behalf of the purchaser of a 39759
motor vehicle, the clerk shall retain the completed electronic 39760
record to which the dealer converted the certificate of title 39761
application and other required documents. The registrar, after 39762
consultation with the attorney general, shall adopt rules that 39763
govern the location at which, and the manner in which, are stored 39764
the actual application and all other documents relating to the 39765
sale of a motor vehicle when an electronic motor vehicle dealer 39766
files the application for a certificate of title electronically on 39767
behalf of the purchaser. 39768

The clerk shall use reasonable diligence in ascertaining 39769
whether or not the facts in the application for a certificate of 39770
title are true by checking the application and documents 39771
accompanying it or the electronic record to which a dealer 39772
converted the application and accompanying documents with the 39773
records of motor vehicles in the clerk's office. If the clerk is 39774
satisfied that the applicant is the owner of the motor vehicle and 39775

that the application is in the proper form, the clerk, within five
business days after the application is filed, shall issue a
physical certificate of title over the clerk's signature and
sealed with the clerk's seal, unless the applicant specifically
requests the clerk not to issue a physical certificate of title
and instead to issue an electronic certificate of title. For
purposes of the transfer of a certificate of title, if the clerk
is satisfied that the secured party has duly discharged a lien
notation but has not canceled the lien notation with a clerk, the
clerk may cancel the lien notation on the automated title
processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general
buyer or user by a dealer, by a motor vehicle leasing dealer
selling the motor vehicle to the lessee or, in a case in which the
leasing dealer subleased the motor vehicle, the sublessee, at the
end of the lease agreement or sublease agreement, or by a
manufactured home broker, the certificate of title shall be
obtained in the name of the buyer by the dealer, leasing dealer,
or manufactured home broker, as the case may be, upon application
signed by the buyer. The certificate of title shall be issued, or
the process of entering the certificate of title application
information into the automated title processing system if a
physical certificate of title is not to be issued shall be
completed, within five business days after the application for
title is filed with the clerk. If the buyer of the motor vehicle
previously leased the motor vehicle and is buying the motor
vehicle at the end of the lease pursuant to that lease, the
certificate of title shall be obtained in the name of the buyer by
the motor vehicle leasing dealer who previously leased the motor
vehicle to the buyer or by the motor vehicle leasing dealer who
subleased the motor vehicle to the buyer under a sublease
agreement.

In all other cases, except as provided in section 4505.032 39808
and division (D)(2) of section 4505.11 of the Revised Code, such 39809
certificates shall be obtained by the buyer. 39810

(5)(a)(i) If the certificate of title is being obtained in 39811
the name of the buyer by a motor vehicle dealer or motor vehicle 39812
leasing dealer and there is a security interest to be noted on the 39813
certificate of title, the dealer or leasing dealer shall submit 39814
the application for the certificate of title and payment of the 39815
applicable tax to a clerk within seven business days after the 39816
later of the delivery of the motor vehicle to the buyer or the 39817
date the dealer or leasing dealer obtains the manufacturer's or 39818
importer's certificate, or certificate of title issued in the name 39819
of the dealer or leasing dealer, for the motor vehicle. Submission 39820
of the application for the certificate of title and payment of the 39821
applicable tax within the required seven business days may be 39822
indicated by postmark or receipt by a clerk within that period. 39823

(ii) Upon receipt of the certificate of title with the 39824
security interest noted on its face, the dealer or leasing dealer 39825
shall forward the certificate of title to the secured party at the 39826
location noted in the financing documents or otherwise specified 39827
by the secured party. 39828

(iii) A motor vehicle dealer or motor vehicle leasing dealer 39829
is liable to a secured party for a late fee of ten dollars per day 39830
for each certificate of title application and payment of the 39831
applicable tax that is submitted to a clerk more than seven 39832
business days but less than twenty-one days after the later of the 39833
delivery of the motor vehicle to the buyer or the date the dealer 39834
or leasing dealer obtains the manufacturer's or importer's 39835
certificate, or certificate of title issued in the name of the 39836
dealer or leasing dealer, for the motor vehicle and, from then on, 39837
twenty-five dollars per day until the application and applicable 39838
tax are submitted to a clerk. 39839

(b) In all cases of transfer of a motor vehicle, the 39840
application for certificate of title shall be filed within thirty 39841
days after the assignment or delivery of the motor vehicle. If an 39842
application for a certificate of title is not filed within the 39843
period specified in division (A)(5)(b) of this section, the clerk 39844
shall collect a fee of five dollars for the issuance of the 39845
certificate, except that no such fee shall be required from a 39846
motor vehicle salvage dealer, as defined in division (A) of 39847
section 4738.01 of the Revised Code, who immediately surrenders 39848
the certificate of title for cancellation. The fee shall be in 39849
addition to all other fees established by this chapter, and shall 39850
be retained by the clerk. The registrar shall provide, on the 39851
certificate of title form prescribed by section 4505.07 of the 39852
Revised Code, language necessary to give evidence of the date on 39853
which the assignment or delivery of the motor vehicle was made. 39854

(6) As used in division (A) of this section, "lease 39855
agreement," "lessee," and "sublease agreement" have the same 39856
meanings as in section 4505.04 of the Revised Code. 39857

(B)(1) The clerk, except as provided in this section, shall 39858
refuse to accept for filing any application for a certificate of 39859
title and shall refuse to issue a certificate of title unless the 39860
dealer or manufactured home broker or the applicant, in cases in 39861
which the certificate shall be obtained by the buyer, submits with 39862
the application payment of the tax levied by or pursuant to 39863
Chapters 5739. and 5741. of the Revised Code based on the 39864
purchaser's county of residence. Upon payment of the tax in 39865
accordance with division (E) of this section, the clerk shall 39866
issue a receipt prescribed by the registrar and agreed upon by the 39867
tax commissioner showing payment of the tax or a receipt issued by 39868
the commissioner showing the payment of the tax. When submitting 39869
payment of the tax to the clerk, a dealer shall retain any 39870
discount to which the dealer is entitled under section 5739.12 of 39871

the Revised Code. 39872

(2) For receiving and disbursing such taxes paid to the clerk 39873
by a resident of the clerk's county, the clerk may retain a 39874
poundage fee of one and one one-hundredth per cent, and the clerk 39875
shall pay the poundage fee into the certificate of title 39876
administration fund created by section 325.33 of the Revised Code. 39877
The clerk shall not retain a poundage fee from payments of taxes 39878
by persons who do not reside in the clerk's county. 39879

A clerk, however, may retain from the taxes paid to the clerk 39880
an amount equal to the poundage fees associated with certificates 39881
of title issued by other clerks of courts of common pleas to 39882
applicants who reside in the first clerk's county. The registrar, 39883
in consultation with the tax commissioner and the clerks of the 39884
courts of common pleas, shall develop a report from the automated 39885
title processing system that informs each clerk of the amount of 39886
the poundage fees that the clerk is permitted to retain from those 39887
taxes because of certificates of title issued by the clerks of 39888
other counties to applicants who reside in the first clerk's 39889
county. 39890

(3) In the case of casual sales of motor vehicles, as defined 39891
in section 4517.01 of the Revised Code, the price for the purpose 39892
of determining the tax shall be the purchase price on the assigned 39893
certificate of title executed by the seller and filed with the 39894
clerk by the buyer on a form to be prescribed by the registrar, 39895
which shall be prima-facie evidence of the amount for the 39896
determination of the tax. 39897

(4) Each county clerk shall forward to the treasurer of state 39898
all sales and use tax collections resulting from sales of motor 39899
vehicles, off-highway motorcycles, and all-purpose vehicles during 39900
a calendar week on or before the Friday following the close of 39901
that week. If, on any Friday, the offices of the clerk of courts 39902
or the state are not open for business, the tax shall be forwarded 39903

to the treasurer of state on or before the next day on which the 39904
offices are open. Every remittance of tax under division (B)(4) of 39905
this section shall be accompanied by a remittance report in such 39906
form as the tax commissioner prescribes. Upon receipt of a tax 39907
remittance and remittance report, the treasurer of state shall 39908
date stamp the report and forward it to the tax commissioner. If 39909
the tax due for any week is not remitted by a clerk of courts as 39910
required under division (B)(4) of this section, the commissioner 39911
may require the clerk to forfeit the poundage fees for the sales 39912
made during that week. The treasurer of state may require the 39913
clerks of courts to transmit tax collections and remittance 39914
reports electronically. 39915

(C)(1) If the transferor indicates on the certificate of 39916
title that the odometer reflects mileage in excess of the designed 39917
mechanical limit of the odometer, the clerk shall enter the phrase 39918
"exceeds mechanical limits" following the mileage designation. If 39919
the transferor indicates on the certificate of title that the 39920
odometer reading is not the actual mileage, the clerk shall enter 39921
the phrase "nonactual: warning - odometer discrepancy" following 39922
the mileage designation. The clerk shall use reasonable care in 39923
transferring the information supplied by the transferor, but is 39924
not liable for any errors or omissions of the clerk or those of 39925
the clerk's deputies in the performance of the clerk's duties 39926
created by this chapter. 39927

The registrar shall prescribe an affidavit in which the 39928
transferor shall swear to the true selling price and, except as 39929
provided in this division, the true odometer reading of the motor 39930
vehicle. The registrar may prescribe an affidavit in which the 39931
seller and buyer provide information pertaining to the odometer 39932
reading of the motor vehicle in addition to that required by this 39933
section, as such information may be required by the United States 39934
secretary of transportation by rule prescribed under authority of 39935

subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 39936
39937

(2) Division (C)(1) of this section does not require the 39938
giving of information concerning the odometer and odometer reading 39939
of a motor vehicle when ownership of a motor vehicle is being 39940
transferred as a result of a bequest, under the laws of intestate 39941
succession, to a survivor pursuant to section 2106.18, 2131.12, or 39942
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 39943
beneficiaries pursuant to section 2131.13 of the Revised Code, in 39944
connection with the creation of a security interest or for a 39945
vehicle with a gross vehicle weight rating of more than sixteen 39946
thousand pounds. 39947

(D) When the transfer to the applicant was made in some other 39948
state or in interstate commerce, the clerk, except as provided in 39949
this section, shall refuse to issue any certificate of title 39950
unless the tax imposed by or pursuant to Chapter 5741. of the 39951
Revised Code based on the purchaser's county of residence has been 39952
paid as evidenced by a receipt issued by the tax commissioner, or 39953
unless the applicant submits with the application payment of the 39954
tax. Upon payment of the tax in accordance with division (E) of 39955
this section, the clerk shall issue a receipt prescribed by the 39956
registrar and agreed upon by the tax commissioner, showing payment 39957
of the tax. 39958

For receiving and disbursing such taxes paid to the clerk by 39959
a resident of the clerk's county, the clerk may retain a poundage 39960
fee of one and one one-hundredth per cent. The clerk shall not 39961
retain a poundage fee from payments of taxes by persons who do not 39962
reside in the clerk's county. 39963

A clerk, however, may retain from the taxes paid to the clerk 39964
an amount equal to the poundage fees associated with certificates 39965
of title issued by other clerks of courts of common pleas to 39966

applicants who reside in the first clerk's county. The registrar, 39967
in consultation with the tax commissioner and the clerks of the 39968
courts of common pleas, shall develop a report from the automated 39969
title processing system that informs each clerk of the amount of 39970
the poundage fees that the clerk is permitted to retain from those 39971
taxes because of certificates of title issued by the clerks of 39972
other counties to applicants who reside in the first clerk's 39973
county. 39974

When the vendor is not regularly engaged in the business of 39975
selling motor vehicles, the vendor shall not be required to 39976
purchase a vendor's license or make reports concerning those 39977
sales. 39978

(E) The clerk shall accept any payment of a tax in cash, or 39979
by cashier's check, certified check, draft, money order, or teller 39980
check issued by any insured financial institution payable to the 39981
clerk and submitted with an application for a certificate of title 39982
under division (B) or (D) of this section. The clerk also may 39983
accept payment of the tax by corporate, business, or personal 39984
check, credit card, electronic transfer or wire transfer, debit 39985
card, or any other accepted form of payment made payable to the 39986
clerk. The clerk may require bonds, guarantees, or letters of 39987
credit to ensure the collection of corporate, business, or 39988
personal checks. Any service fee charged by a third party to a 39989
clerk for the use of any form of payment may be paid by the clerk 39990
from the certificate of title administration fund created in 39991
section 325.33 of the Revised Code, or may be assessed by the 39992
clerk upon the applicant as an additional fee. Upon collection, 39993
the additional fees shall be paid by the clerk into that 39994
certificate of title administration fund. 39995

The clerk shall make a good faith effort to collect any 39996
payment of taxes due but not made because the payment was returned 39997
or dishonored, but the clerk is not personally liable for the 39998

payment of uncollected taxes or uncollected fees. The clerk shall 39999
notify the tax commissioner of any such payment of taxes that is 40000
due but not made and shall furnish the information to the 40001
commissioner that the commissioner requires. The clerk shall 40002
deduct the amount of taxes due but not paid from the clerk's 40003
periodic remittance of tax payments, in accordance with procedures 40004
agreed upon by the tax commissioner. The commissioner may collect 40005
taxes due by assessment in the manner provided in section 5739.13 40006
of the Revised Code. 40007

Any person who presents payment that is returned or 40008
dishonored for any reason is liable to the clerk for payment of a 40009
penalty over and above the amount of the taxes due. The clerk 40010
shall determine the amount of the penalty, and the penalty shall 40011
be no greater than that amount necessary to compensate the clerk 40012
for banking charges, legal fees, or other expenses incurred by the 40013
clerk in collecting the returned or dishonored payment. The 40014
remedies and procedures provided in this section are in addition 40015
to any other available civil or criminal remedies. Subsequently 40016
collected penalties, poundage fees, and title fees, less any title 40017
fee due the state, from returned or dishonored payments collected 40018
by the clerk shall be paid into the certificate of title 40019
administration fund. Subsequently collected taxes, less poundage 40020
fees, shall be sent by the clerk to the treasurer of state at the 40021
next scheduled periodic remittance of tax payments, with 40022
information as the commissioner may require. The clerk may abate 40023
all or any part of any penalty assessed under this division. 40024

(F) In the following cases, the clerk shall accept for filing 40025
an application and shall issue a certificate of title without 40026
requiring payment or evidence of payment of the tax: 40027

(1) When the purchaser is this state or any of its political 40028
subdivisions, a church, or an organization whose purchases are 40029
exempted by section 5739.02 of the Revised Code; 40030

(2) When the transaction in this state is not a retail sale 40031
as defined by section 5739.01 of the Revised Code; 40032

(3) When the purchase is outside this state or in interstate 40033
commerce and the purpose of the purchaser is not to use, store, or 40034
consume within the meaning of section 5741.01 of the Revised Code; 40035

(4) When the purchaser is the federal government; 40036

(5) When the motor vehicle was purchased outside this state 40037
for use outside this state; 40038

(6) When the motor vehicle is purchased by a nonresident of 40039
this state for immediate removal from this state, and will be 40040
permanently titled and registered in another state, as provided by 40041
division (B)(23) of section 5739.02 of the Revised Code, and upon 40042
presentation of a copy of the affidavit provided by that section, 40043
and a copy of the exemption certificate provided by section 40044
5739.03 of the Revised Code. 40045

~~The clerk shall forward all payments of taxes, less poundage 40046
fees, to the treasurer of state in a manner to be prescribed by 40047
the tax commissioner and shall furnish information to the 40048
commissioner as the commissioner requires. 40049~~

(G) An application, as prescribed by the registrar and agreed 40050
to by the tax commissioner, shall be filled out and sworn to by 40051
the buyer of a motor vehicle in a casual sale. The application 40052
shall contain the following notice in bold lettering: "WARNING TO 40053
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 40054
law to state the true selling price. A false statement is in 40055
violation of section 2921.13 of the Revised Code and is punishable 40056
by six months' imprisonment or a fine of up to one thousand 40057
dollars, or both. All transfers are audited by the department of 40058
taxation. The seller and buyer must provide any information 40059
requested by the department of taxation. The buyer may be assessed 40060
any additional tax found to be due." 40061

(H) For sales of manufactured homes or mobile homes occurring 40062
on or after January 1, 2000, the clerk shall accept for filing, 40063
pursuant to Chapter 5739. of the Revised Code, an application for 40064
a certificate of title for a manufactured home or mobile home 40065
without requiring payment of any tax pursuant to section 5739.02, 40066
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 40067
issued by the tax commissioner showing payment of the tax. For 40068
sales of manufactured homes or mobile homes occurring on or after 40069
January 1, 2000, the applicant shall pay to the clerk an 40070
additional fee of five dollars for each certificate of title 40071
issued by the clerk for a manufactured or mobile home pursuant to 40072
division (H) of section 4505.11 of the Revised Code and for each 40073
certificate of title issued upon transfer of ownership of the 40074
home. The clerk shall credit the fee to the county certificate of 40075
title administration fund, and the fee shall be used to pay the 40076
expenses of archiving those certificates pursuant to division (A) 40077
of section 4505.08 and division (H)(3) of section 4505.11 of the 40078
Revised Code. The tax commissioner shall administer any tax on a 40079
manufactured or mobile home pursuant to Chapters 5739. and 5741. 40080
of the Revised Code. 40081

(I) Every clerk shall have the capability to transact by 40082
electronic means all procedures and transactions relating to the 40083
issuance of motor vehicle certificates of title that are described 40084
in the Revised Code as being accomplished by electronic means. 40085

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 40086
trackless trolley upon meeting or overtaking from either direction 40087
any school bus stopped for the purpose of receiving or discharging 40088
any school child, person attending programs offered by community 40089
boards of mental health and county boards of mental retardation 40090
and developmental disabilities, or child attending a program 40091
offered by a head start agency, shall stop at least ten feet from 40092

the front or rear of the school bus and shall not proceed until 40093
such school bus resumes motion, or until signaled by the school 40094
bus driver to proceed. 40095

It is no defense to a charge under this division that the 40096
school bus involved failed to display or be equipped with an 40097
automatically extended stop warning sign as required by division 40098
(B) of this section. 40099

(B) Every school bus shall be equipped with amber and red 40100
visual signals meeting the requirements of section 4511.771 of the 40101
Revised Code, and an automatically extended stop warning sign of a 40102
type approved by the state board of education, which shall be 40103
actuated by the driver of the bus whenever but only whenever the 40104
bus is stopped or stopping on the roadway for the purpose of 40105
receiving or discharging school children, persons attending 40106
programs offered by community boards of mental health and county 40107
boards of mental retardation and developmental disabilities, or 40108
children attending programs offered by head start agencies. A 40109
school bus driver shall not actuate the visual signals or the stop 40110
warning sign in designated school bus loading areas where the bus 40111
is entirely off the roadway or at school buildings when children 40112
or persons attending programs offered by community boards of 40113
mental health and county boards of mental retardation and 40114
developmental disabilities are loading or unloading at curbside or 40115
at buildings when children attending programs offered by head 40116
start agencies are loading or unloading at curbside. The visual 40117
signals and stop warning sign shall be synchronized or otherwise 40118
operated as required by rule of the board. 40119

(C) Where a highway has been divided into four or more 40120
traffic lanes, a driver of a vehicle, streetcar, or trackless 40121
trolley need not stop for a school bus approaching from the 40122
opposite direction which has stopped for the purpose of receiving 40123
or discharging any school child, persons attending programs 40124

offered by community boards of mental health and county boards of
mental retardation and developmental disabilities, or children
attending programs offered by head start agencies. The driver of
any vehicle, streetcar, or trackless trolley overtaking the school
bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways
with four or more traffic lanes shall receive and discharge all
school children, persons attending programs offered by community
boards of mental health and county boards of mental retardation
and developmental disabilities, and children attending programs
offered by head start agencies on their residence side of the
highway.

(E) No school bus driver shall start the driver's bus until
after any child, person attending programs offered by community
boards of mental health and county boards of mental retardation
and developmental disabilities, or child attending a program
offered by a head start agency who may have alighted therefrom has
reached a place of safety on the child's or person's residence
side of the road.

(F)(1) Whoever violates division (A) of this section may be
fined an amount not to exceed five hundred dollars. A person who
is issued a citation for a violation of division (A) of this
section is not permitted to enter a written plea of guilty and
waive the person's right to contest the citation in a trial but
instead must appear in person in the proper court to answer the
charge.

(2) In addition to and independent of any other penalty
provided by law, the court or mayor may impose upon an offender
who violates this section a class seven suspension of the
offender's driver's license, commercial driver's license,
temporary instruction permit, probationary license, or nonresident

operating privilege from the range specified in division (A)(7) of 40156
section 4510.02 of the Revised Code. When a license is suspended 40157
under this section, the court or mayor shall cause the offender to 40158
deliver the license to the court, and the court or clerk of the 40159
court immediately shall forward the license to the registrar of 40160
motor vehicles, together with notice of the court's action. 40161

(G) As used in this section: 40162

(1) "Head start agency" has the same meaning as in section 40163
~~3301.31~~ 3301.32 of the Revised Code. 40164

(2) "School bus," as used in relation to children who attend 40165
a program offered by a head start agency, means a bus that is 40166
owned and operated by a head start agency, is equipped with an 40167
automatically extended stop warning sign of a type approved by the 40168
state board of education, is painted the color and displays the 40169
markings described in section 4511.77 of the Revised Code, and is 40170
equipped with amber and red visual signals meeting the 40171
requirements of section 4511.771 of the Revised Code, irrespective 40172
of whether or not the bus has fifteen or more children aboard at 40173
any time. "School bus" does not include a van owned and operated 40174
by a head start agency, irrespective of its color, lights, or 40175
markings. 40176

Sec. 4519.02. (A) Except as provided in divisions (B), (C), 40177
and (D) of this section, no person shall operate any snowmobile, 40178
off-highway motorcycle, or all-purpose vehicle within this state 40179
unless the snowmobile, off-highway motorcycle, or all-purpose 40180
vehicle is registered and numbered in accordance with sections 40181
4519.03 and 4519.04 of the Revised Code. 40182

(B) No registration is required for a snowmobile, off-highway 40183
motorcycle, or all-purpose vehicle that is operated exclusively 40184
upon lands owned by the owner of the snowmobile, off-highway 40185

motorcycle, or all-purpose vehicle, or on lands to which the owner
has a contractual right. 40186
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~~(C) No registration is required for a snowmobile, off-highway
motorcycle, or all-purpose vehicle owned and used in this state by
a resident of another state whenever that state has in effect a
registration law similar to this chapter and the snowmobile,
off-highway motorcycle, or all-purpose vehicle is properly
registered thereunder. Any snowmobile, off-highway motorcycle, or
all-purpose vehicle owned and used in this state by a person who
is not a resident of another this state ~~not having such a
registration requirement~~ shall comply with section 4519.09 of the
Revised Code.~~ 40188
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(D) No registration is required for a snowmobile, off-highway
motorcycle, or all-purpose vehicle owned and used in this state by
the United States, another state, or a political subdivision
thereof, but the snowmobile, off-highway motorcycle, or
all-purpose vehicle shall display the name of the owner thereon. 40198
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(E) The owner or operator of any all-purpose vehicle operated
or used upon the waters in this state shall comply with Chapters
1547. and 1548. of the Revised Code relative to the operation of
watercraft. 40203
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(F) Except as otherwise provided in this division, whoever
violates division (A) of this section shall be fined not more than
twenty-five dollars. If the offender previously has been convicted
of or pleaded guilty to a violation of division (A) of this
section, whoever violates division (A) of this section shall be
fined not less than twenty-five nor more than fifty dollars. 40207
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Sec. 4519.09. Every owner or operator of a snowmobile,
off-highway motorcycle, or all-purpose vehicle who is not a
resident of a this state ~~not having a registration law similar to~~ 40213
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~~this chapter~~, and who expects to use the snowmobile, off-highway motorcycle, or all-purpose vehicle in Ohio, shall apply to the registrar of motor vehicles or a deputy registrar for a temporary operating permit. The temporary operating permit shall be issued for a period not to exceed fifteen days from the date of issuance, shall be in such form as the registrar determines, shall include the name and address of the owner and operator of the snowmobile, off-highway motorcycle, or all-purpose vehicle, and any other information as the registrar considers necessary, and shall be issued upon payment of a fee of five dollars. Every owner or operator receiving a temporary operating permit shall display it upon the reasonable request of any law enforcement officer or other person as authorized by sections 4519.42 and 4519.43 of the Revised Code.

Sec. 4561.17. For the purpose of providing revenue for paying the expenses of administering sections 4561.17 to 4561.22 of the Revised Code relative to the registration of aircraft, for the surveying of and the establishment, checking, maintenance, and repair of aviation air marking and of air navigation facilities, for airport capital improvements, for the acquiring, maintaining, and repairing of equipment necessary therefor, and for the cost of the creation and distribution of Ohio aeronautical charts and Ohio airport and landing field directories, an annual license tax is hereby levied upon all aircraft based in this state for which an aircraft worthiness certificate issued by the federal aviation administration is in effect except the following:

(A) Aircraft owned by the United States or any territory thereof;

(B) Aircraft owned by any foreign government;

(C) Aircraft owned by any state or any political subdivision thereof;

(D) Aircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor thereto; 40247
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(E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has complied with all the laws in regard to the licensing of aircraft in the state of ~~his~~ the owner's residence; 40250
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(F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration; 40254
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(G) Aircraft operated for hire over regularly scheduled routes within the state. 40257
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Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section. 40259
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Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department. 40263
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Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this state, if such aircraft is acquired or becomes subject to such license tax subsequent to the last day of January in any year, shall be made for the balance of the year in which the same is 40269
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acquired, within forty-eight hours after such acquisition or after 40277
becoming subject to such license tax. Each such application shall 40278
be accompanied by the proper license tax, which, for all aircraft 40279
other than gliders and balloons, shall be at the annual rate of 40280
~~one hundred~~ fifteen dollars per aircraft seat, based on the 40281
manufacturer's maximum listed seating capacity. The license tax 40282
for gliders and balloons shall be ~~three~~ fifteen dollars annually. 40283

Such taxes are in lieu of all other taxes on or with respect 40284
to ownership of such aircraft. 40285

Sec. 4561.21. (A) The director of transportation shall 40286
deposit all aircraft transfer fees in the state treasury to the 40287
credit of the general fund. 40288

(B) The director shall deposit all aircraft license taxes in 40289
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ 40290
assistance fund, which is hereby created. Money in the fund shall 40291
be used ~~to assist counties in maintaining the~~ for maintenance and 40292
capital improvements to publicly owned airports ~~they own~~, and the 40293
director shall distribute the money to ~~counties~~ eligible 40294
recipients in accordance with such procedures, guidelines, and 40295
criteria as the director shall establish. 40296

Sec. 4703.15. (A) The state board of examiners of architects 40297
may by three concurring votes deny renewal of, revoke, or suspend 40298
any certificate of qualification to practice architecture, issued 40299
or renewed under sections 4703.10, 4703.13, and 4703.14 of the 40300
Revised Code, or any certificate of authorization, issued or 40301
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 40302
proof satisfactory to the board is presented in any of the 40303
following cases: 40304

~~(A)(1)~~ In case it is shown that the certificate was obtained 40305
by fraud; 40306

~~(B)~~(2) In case the holder of the certificate has been found 40307
guilty by the board or by a court of justice of any fraud or 40308
deceit in ~~his~~ the holder's professional practice, or has been 40309
convicted of a felony by a court of justice; 40310

~~(C)~~(3) In case the holder has been found guilty by the board 40311
of gross negligence, incompetency, or misconduct in the 40312
performance of ~~his~~ the holder's services as an architect or in the 40313
practice of architecture; 40314

~~(D)~~(4) In case the holder of the certificate has been found 40315
guilty by the board of signing plans for the construction of a 40316
building as a "registered architect" where ~~he~~ the holder is not 40317
the actual architect of such building and where ~~he~~ the holder is 40318
without prior written consent of the architect originating the 40319
design or other documents used in the plans; 40320

~~(E)~~(5) In case the holder of the certificate has been found 40321
guilty by the board of aiding and abetting another person or 40322
persons not properly registered as required by sections 4703.01 to 40323
4703.19 of the Revised Code, in the performance of activities that 40324
in any manner or extent constitute the practice of architecture. 40325

At any time after the expiration of six months from the date 40326
of the revocation or suspension of a certificate, the individual, 40327
firm, partnership, association, or corporation may apply for 40328
reinstatement of the certificate. Upon showing that all loss 40329
caused by the individual, firm, partnership, association, or 40330
corporation whose certificate has been revoked or suspended has 40331
been fully satisfied and that all conditions imposed by the 40332
revocation or suspension decision have been complied with, and 40333
upon the payment of all costs incurred by the board as a result of 40334
the case at issue, the board, at its discretion and upon evidence 40335
that in its opinion would so warrant, may restore the certificate. 40336

(B) In addition to disciplinary action the board may take 40337

against a certificate holder under division (A) of this section or 40338
section 4703.151 of the Revised Code, the board may impose a fine 40339
against a certificate holder who obtained a certificate by fraud 40340
or who is found guilty of any act specified in divisions (A)(2) to 40341
(A)(5) of this section or who violates any rule governing the 40342
standards of service, conduct, and practice adopted pursuant to 40343
section 4703.02 of the Revised Code. The fine imposed shall be not 40344
more than one thousand dollars for each offense but shall not 40345
exceed five thousand dollars regardless of the number of offenses 40346
the certificate holder has committed between the time the fine is 40347
imposed and the time any previous fine was imposed. 40348

Sec. 4705.09. (A)(1) Any person admitted to the practice of 40349
law in this state by order of the supreme court in accordance with 40350
its prescribed and published rules, or any law firm or legal 40351
professional association, may establish and maintain an 40352
interest-bearing trust account, for purposes of depositing client 40353
funds held by the attorney, firm, or association that are nominal 40354
in amount or are to be held by the attorney, firm, or association 40355
for a short period of time, with any bank or savings and loan 40356
association that is authorized to do business in this state and is 40357
insured by the federal deposit insurance corporation or the 40358
successor to that corporation, or any credit union insured by the 40359
national credit union administration operating under the "Federal 40360
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each 40361
account established under this division shall be in the name of 40362
the attorney, firm, or association that established and is 40363
maintaining it and shall be identified as an IOLTA or an interest 40364
on lawyer's trust account. The name of the account may contain 40365
additional identifying features to distinguish it from other trust 40366
accounts established and maintained by the attorney, firm, or 40367
association. 40368

(2) Each attorney who receives funds belonging to a client 40369
shall do one of the following: 40370

(a) Establish and maintain one or more interest-bearing trust 40371
accounts in accordance with division (A)(1) of this section or 40372
maintain one or more interest-bearing trust accounts previously 40373
established in accordance with that division, and deposit all 40374
client funds held that are nominal in amount or are to be held by 40375
the attorney for a short period of time in the account or 40376
accounts; 40377

(b) If the attorney is affiliated with a law firm or legal 40378
professional association, comply with division (A)(2)(a) of this 40379
section or deposit all client funds held that are nominal in 40380
amount or are to be held by the attorney for a short period of 40381
time in one or more interest-bearing trust accounts established 40382
and maintained by the firm or association in accordance with 40383
division (A)(1) of this section. 40384

(3) No funds belonging to any attorney, firm, or legal 40385
professional association shall be deposited in any 40386
interest-bearing ~~IOTA~~ IOLTA account established under division 40387
(A)(1) or (2) of this section, except that funds sufficient to pay 40388
or enable a waiver of depository institution service charges on 40389
the account shall be deposited in the account and other funds 40390
belonging to the attorney, firm, or association may be deposited 40391
as authorized by the Code of Professional Responsibility adopted 40392
by the supreme court. The determinations of whether funds held are 40393
nominal or more than nominal in amount and of whether funds are to 40394
be held for a short period or longer than a short period of time 40395
rests in the sound judgment of the particular attorney. No 40396
imputation of professional misconduct shall arise from the 40397
attorney's exercise of judgment in these matters. 40398

(B) All interest earned on funds deposited in an 40399

interest-bearing trust account established under division (A)(1) 40400
or (2) of this section shall be transmitted to the treasurer of 40401
state for deposit in the legal aid fund established under section 40402
120.52 of the Revised Code. No part of the interest earned on 40403
funds deposited in an interest-bearing trust account established 40404
under division (A)(1) or (2) of this section shall be paid to, or 40405
inure to the benefit of, the attorney, the attorney's law firm or 40406
legal professional association, the client or other person who 40407
owns or has a beneficial ownership of the funds deposited, or any 40408
other person other than in accordance with this section, section 40409
4705.10, and sections 120.51 to 120.55 of the Revised Code. 40410

(C) No liability arising out of any act or omission by any 40411
attorney, law firm, or legal professional association with respect 40412
to any interest-bearing trust account established under division 40413
(A)(1) or (2) of this section shall be imputed to the depository 40414
institution. 40415

(D) The supreme court may adopt and enforce rules of 40416
professional conduct that pertain to the use, by attorneys, law 40417
firms, or legal professional associations, of interest-bearing 40418
trust accounts established under division (A)(1) or (2) of this 40419
section, and that pertain to the enforcement of division (A)(2) of 40420
this section. Any rules adopted by the supreme court under this 40421
authority shall conform to the provisions of this section, section 40422
4705.10, and sections 120.51 to 120.55 of the Revised Code. 40423

Sec. 4709.05. In addition to any other duty imposed on the 40424
barber board under this chapter, the board shall do all of the 40425
following: 40426

(A) Organize by electing a chairperson from its members to 40427
serve a one-year term; 40428

(B) Hold regular meetings, at the times and places as it 40429

determines for the purpose of conducting the examinations required 40430
under this chapter, and hold additional meetings for the 40431
transaction of necessary business; 40432

(C) Provide for suitable quarters, in the city of Columbus, 40433
for the conduct of its business and the maintenance of its 40434
records; 40435

(D) Adopt a common seal for the authentication of its orders, 40436
communications, and records; 40437

(E) Maintain a record of its proceedings and a register of 40438
persons licensed as barbers. The register shall include each 40439
licensee's name, place of business, residence, and licensure date 40440
and number, and a record of all licenses issued, refused, renewed, 40441
suspended, or revoked. The records are open to public inspection 40442
at all reasonable times. 40443

(F) Annually, on or before the first day of January, make a 40444
report to the governor of all its official acts during the 40445
preceding year, its receipts and disbursements, recommendations it 40446
determines appropriate, and an evaluation of board activities 40447
intended to aid or protect consumers of barber services; 40448

(G) Employ an executive director who shall do all things 40449
requested by the board for the administration and enforcement of 40450
this chapter. The executive director shall employ inspectors, 40451
clerks, and other assistants as he the executive director 40452
determines necessary. 40453

(H) Ensure that the practice of barbering is conducted only 40454
in a licensed barber shop, except when the practice of barbering 40455
is performed on a person whose physical or mental disability 40456
prevents that person from going to a licensed barber shop; 40457

(I) Conduct or have conducted the examination for applicants 40458
to practice as licensed barbers at least four times per year at 40459

the times and places the board determines; 40460

(J) Adopt rules, in accordance with Chapter 119. of the 40461
Revised Code, to administer and enforce this chapter and which 40462
cover all of the following: 40463

(1) Sanitary standards for the operation of barber shops and 40464
barber schools that conform to guidelines established by the 40465
department of health; 40466

(2) The content of the examination required of an applicant 40467
for a barber license. The examination shall include a practical 40468
demonstration and a written test, shall relate only to the 40469
practice of barbering, and shall require the applicant to 40470
demonstrate that the applicant has a thorough knowledge of and 40471
competence in the proper techniques in the safe use of chemicals 40472
used in the practice of barbering. 40473

(3) Continuing education requirements for persons licensed 40474
pursuant to this chapter. The board may impose continuing 40475
education requirements upon a licensee for a violation of this 40476
chapter or the rules adopted pursuant thereto or if the board 40477
determines that the requirements are necessary to preserve the 40478
health, safety, or welfare of the public. 40479

(4) Requirements for the licensure of barber schools, barber 40480
teachers, and assistant barber teachers; 40481

(5) Requirements for students of barber schools; 40482

(6) Any other area the board determines appropriate to 40483
administer or enforce this chapter. 40484

(K) Annually review the rules adopted pursuant to division 40485
(J) of this section in order to compare those rules with the rules 40486
adopted by the state board of cosmetology pursuant to section 40487
4713.08 of the Revised Code. If the barber board determines that 40488
the rules adopted by the state board of cosmetology, including, 40489

but not limited to, rules concerning using career technical schools, would be beneficial to the barbering profession, the barber board shall adopt rules similar to those it determines would be beneficial for barbers. 40490
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(L) Prior to adopting any rule under this chapter, indicate at a formal hearing the reasons why the rule is necessary as a protection of the persons who use barber services or as an improvement of the professional standing of barbers in this state; 40494
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~~(L)~~(M) Furnish each owner or manager of a barber shop and barber school with a copy of all sanitary rules adopted pursuant to division (J) of this section; 40498
40499
40500

~~(M)~~(N) Conduct such investigations and inspections of persons and establishments licensed or unlicensed pursuant to this chapter and for that purpose, any member of the board or any of its authorized agents may enter and inspect any place of business of a licensee or a person suspected of violating this chapter or the rules adopted pursuant thereto, during normal business hours; 40501
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~~(N)~~(O) Upon the written request of an applicant and the payment of the appropriate fee, provide to the applicant licensure information concerning the applicant; 40507
40508
40509

~~(O)~~(P) Do all things necessary for the proper administration and enforcement of this chapter. 40510
40511

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code: 40512
40513

(A)(1) "Clinical laboratory services" means either of the following: 40514
40515

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health; 40516
40517
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(b) Procedures to determine, measure, or otherwise describe 40520
the presence or absence of various substances or organisms in the 40521
body. 40522

(2) "Clinical laboratory services" does not include the mere 40523
collection or preparation of specimens. 40524

(B) "Designated health services" means any of the following: 40525

(1) Clinical laboratory services; 40526

(2) Home health care services; 40527

(3) Outpatient prescription drugs. 40528

(C) "Fair market value" means the value in arms-length 40529
transactions, consistent with general market value and: 40530

(1) With respect to rentals or leases, the value of rental 40531
property for general commercial purposes, not taking into account 40532
its intended use; 40533

(2) With respect to a lease of space, not adjusted to reflect 40534
the additional value the prospective lessee or lessor would 40535
attribute to the proximity or convenience to the lessor if the 40536
lessor is a potential source of referrals to the lessee. 40537

(D) "Governmental health care program" means any program 40538
providing health care benefits that is administered by the federal 40539
government, this state, or a political subdivision of this state, 40540
including the medicare program established under Title XVIII of 40541
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 40542
as amended, health care coverage for public employees, health care 40543
benefits administered by the bureau of workers' compensation, or 40544
the medical assistance program established under Chapter 5111. of 40545
the Revised Code, ~~and the disability medical assistance program~~ 40546
~~established under Chapter 5115. of the Revised Code.~~ 40547

(E)(1) "Group practice" means a group of two or more holders 40548
of certificates under this chapter legally organized as a 40549

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:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation

with another physician and any test or procedure ordered by or to 40612
be performed by or under the supervision of the other physician; 40613

(2) A request for or establishment of a plan of care by a 40614
certificate holder that includes the provision of designated 40615
health services. 40616

(I) "Third-party payer" has the same meaning as in section 40617
3901.38 of the Revised Code. 40618

Sec. 4731.71. The auditor of state may implement procedures 40619
to detect violations of section 4731.66 or 4731.69 of the Revised 40620
Code within governmental health care programs administered by the 40621
state. The auditor of state shall report any violation of either 40622
section to the state medical board and shall certify to the 40623
attorney general in accordance with section 131.02 of the Revised 40624
Code the amount of any refund owed to a state-administered 40625
governmental health care program under section 4731.69 of the 40626
Revised Code as a result of a violation. If a refund is owed to 40627
the medical assistance program established under Chapter 5111. of 40628
the Revised Code ~~or the disability medical assistance program~~ 40629
~~established under Chapter 5115. of the Revised Code,~~ the auditor 40630
of state also shall report the amount to the department of 40631
commerce. 40632

The state medical board also may implement procedures to 40633
detect violations of section 4731.66 or 4731.69 of the Revised 40634
Code. 40635

Sec. 4736.11. The state board of sanitarian registration 40636
shall issue a certificate of registration to any applicant whom it 40637
registers as a sanitarian or a sanitarian-in-training. Such 40638
certificate shall bear: 40639

(A) The name of the person; 40640

(B) The date of issue; 40641

(C) A serial number, designated by the board; 40642

(D) The seal of the board and signature of the ~~chairman~~
chairperson of the board; 40643
40644

(E) The designation "registered sanitarian" or 40645
"sanitarian-in-training." 40646

Certificates of registration shall expire annually on the 40647
date fixed by the board and become invalid on that date unless 40648
renewed pursuant to this section. All registered sanitarians shall 40649
be required annually to complete a continuing education program in 40650
subjects relating to practices of the profession as a sanitarian 40651
to the end that the utilization and application of new techniques, 40652
scientific advancements, and research findings will assure 40653
comprehensive service to the public. The board shall prescribe by 40654
rule a continuing education program for registered sanitarians to 40655
meet this requirement. The length of study for this program shall 40656
be determined by the board but shall be not less than six nor more 40657
than twenty-five hours during the calendar year. At least once 40658
annually the board shall ~~mail~~ provide to each registered 40659
sanitarian a list of courses approved by the board as satisfying 40660
the program prescribed by rule. Upon the request of a registered 40661
sanitarian, the secretary shall supply a list of ~~any additional~~ 40662
applicable courses that the board has approved ~~since the most~~ 40663
~~recent mailing~~. A certificate may be renewed for a period of one 40664
year at any time prior to the date of expiration upon payment of 40665
the renewal fee prescribed by section 4736.12 of the Revised Code 40666
and upon showing proof of having complied with the continuing 40667
education requirements of this section. The state board of 40668
sanitarian registration may waive the continuing education 40669
requirement in cases of certified illness or disability which 40670
prevents the attendance at any qualified educational seminars 40671

during the twelve months immediately preceding the annual 40672
certificate of registration renewal date. Certificates which 40673
expire may be reinstated under rules adopted by the board. 40674

Sec. 4736.12. (A) The state board of sanitarian registration 40675
shall charge the following fees: 40676

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty 40677
dollars; 40678

(2) For sanitarians-in-training to apply for registration as 40679
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay 40680
this fee only once regardless of the number of times the applicant 40681
takes an examination required under section 4736.08 of the Revised 40682
Code. 40683

(3) For persons other than sanitarians-in-training to apply 40684
for registration as sanitarians, including persons meeting the 40685
requirements of section 4736.16 of the Revised Code, one hundred 40686
~~fifty~~ sixty dollars. The applicant shall pay this fee only once 40687
regardless of the number of times the applicant takes an 40688
examination required under section 4736.08 of the Revised Code. 40689

(4) The renewal fee for registered sanitarians shall be 40690
~~sixty-nine~~ seventy-four dollars. 40691

(5) The renewal fee for sanitarians-in-training shall be 40692
~~sixty-nine~~ seventy-four dollars. 40693

(6) For late application for renewal, ~~twenty-five~~ 40694
twenty-seven dollars. 40695

The board of sanitarian registration, with the approval of 40696
the controlling board, may establish fees in excess of the amounts 40697
provided in this section, provided that such fees do not exceed 40698
the amounts permitted by this section by more than fifty per cent. 40699

(B) The board of sanitarian registration shall charge 40700
separate fees for examinations as required by section 4736.08 of 40701

the Revised Code, provided that the fees are not in excess of the
actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules
establishing fees for all of the following:

(1) Application for the registration of a training agency
approved under rules adopted by the board pursuant to section
4736.11 of the Revised Code and for the annual registration
renewal of an approved training agency.

(2) Application for the review of continuing education hours
submitted for the board's approval by approved training agencies
or by registered sanitarians or sanitarians-in-training.

Sec. 4757.30. (A) The counselor, social worker, and marriage
and family therapist board shall, after reviewing the report
submitted to it by the marriage and family therapist professional
standards committee, issue a license as a marriage and family
therapist to a person who has done all of the following:

(1) Properly completed an application for the license;

(2) Paid the required fee established by the board under
section 4757.31 of the Revised Code;

(3) Achieved one of the following:

(a) Received from an educational institution accredited at
the time the degree was granted by a regional accrediting
organization recognized by the board a master's degree or a
doctorate in marriage and family therapy;

(b) Completed a graduate degree that includes a minimum of
ninety quarter hours of graduate level course work in marriage and
family therapy training that is acceptable to the committee;

(4) Passed an examination administered by the board for the
purpose of determining the person's ability to be a marriage and

family therapist; 40731

(5) Completed a practicum that includes at least three 40732
hundred hours of client contact. 40733

(B) To be accepted by the committee for purposes of division 40734
(A)(3)(b) of this section, marriage and family therapist training 40735
must include instruction in at least the following: research, 40736
professional ethics, marriage and family studies, marriage and 40737
family therapy, human development, appraisal of individuals and 40738
families, and systems theory. 40739

(C) The board shall, after reviewing the report submitted to 40740
it by the marriage and family therapist professional standards 40741
committee, issue a license as an independent marriage and family 40742
therapist to a person who meets all of the requirements of 40743
division (A) of this section and, after meeting the requirements 40744
under division (A)(3) of this section, completes at least two 40745
calendar years of work experience in marriage and family therapy, 40746
including one thousand hours of documented client contact in 40747
marriage and family therapy. Two hundred hours of the one thousand 40748
hours must be supervised by a supervisor whose training and 40749
experience meets standards established by the board in rules 40750
adopted under section 4757.10 of the Revised Code and one hundred 40751
hours of the two hundred hours of supervision must be individual 40752
supervision. 40753

(D) The board shall waive the requirements of divisions 40754
(A)(4) and (B) of this section for an applicant seeking licensure 40755
under division (A) or (C) of this section for the two years 40756
immediately following ~~the effective date of this section~~ April 7, 40757
2003, if the applicant presents satisfactory evidence of both of 40758
the following: 40759

(1) That the applicant engaged in the practice of marriage 40760
and family therapy for a total of not less than five years prior 40761

to ~~the effective date of this section~~ April 7, 2003; 40762

(2) That, at the time of application, the applicant is an 40763
associate or clinical member of the American association of 40764
marriage and family therapists. 40765

(E) An independent marriage and family therapist or a 40766
marriage and family therapist may engage in the private practice 40767
of marriage and family therapy as an individual practitioner or as 40768
a member of a partnership or group practice. 40769

(F) A marriage and family therapist or independent marriage 40770
and family therapist may diagnose and treat mental and emotional 40771
disorders only under the supervision of a psychologist, 40772
psychiatrist, professional clinical counselor, or independent 40773
social worker, ~~or independent marriage and family therapist. An~~ 40774
~~independent marriage and family therapist may diagnose and treat~~ 40775
~~mental and emotional disorders without supervision.~~ 40776

(G) Nothing in this chapter or rules adopted under it 40777
authorizes an independent marriage and family therapist or a 40778
marriage and family therapist to admit a patient to a hospital or 40779
requires a hospital to allow a marriage and family therapist to 40780
admit a patient. 40781

Sec. 4775.04. (A) The board of motor vehicle collision repair 40782
registration shall do all of the following: 40783

(1) Adopt rules as necessary to carry out the purposes of 40784
this chapter. The rules shall include requirements for the type of 40785
liability insurance required under division (A) of section 4775.07 40786
of the Revised Code. The rules shall permit the use of an 40787
insurance policy issued by any insurer authorized to issue that 40788
type of insurance in this state. 40789

(2) Appoint an executive director to serve at the pleasure of 40790
the board; 40791

(3) Direct the executive director as to how the executive director shall perform the duties imposed under this chapter;	40792 40793
(4) Consider and make recommendations in regard to all matters submitted to the board by the executive director;	40794 40795
(5) <u>Through the executive director or its enforcement agents, work with appropriate local fire departments and appropriate local certified building departments to locate persons operating places of business as a motor vehicle collision repair operator without a temporary or regular registration certificate issued under this chapter for that place of business;</u>	40796 40797 40798 40799 40800 40801
(6) Determine whether to refuse to issue or renew a registration certificate or determine whether to waive a suspension of a registration certificate as provided in division (D) of section 4775.07 of the Revised Code;	40802 40803 40804 40805
(6) (7) Do all acts and perform all functions as are necessary for the administration and enforcement of this chapter.	40806 40807
(B) Nothing in this chapter shall be interpreted as granting the board any authority over a motor vehicle collision repair operator concerning the quality of work performed in the repair of, or installation of parts on, motor vehicles.	40808 40809 40810 40811
Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within this state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross	40812 40813 40814 40815 40816 40817 40818 40819 40820 40821

earnings or receipts, excluding earnings or receipts from sales to 40822
other public utilities for resale, of the railroad or public 40823
utility for the calendar year next preceding that in which the 40824
assessment is made. The commission may include in that first 40825
computation any amount of a railroad's or public utility's 40826
intrastate gross earnings or receipts that were underreported in a 40827
prior year. In addition to whatever penalties apply under the 40828
Revised Code to such underreporting, the commission shall assess 40829
the railroad or public utility interest at the rate stated in 40830
division (A) of section 1343.01 of the Revised Code. The 40831
commission shall deposit any interest so collected into the public 40832
utilities fund. The commission may exclude from that first 40833
computation any such amounts that were overreported in a prior 40834
year. 40835

The final computation of the assessment shall consist of 40836
imposing upon each railroad and public utility whose assessment 40837
under the first computation would have been ~~fifty~~ one hundred 40838
dollars or less an assessment of ~~fifty~~ one hundred dollars and 40839
recomputing the assessments of the remaining railroads and public 40840
utilities by apportioning an amount equal to the appropriation to 40841
the public utilities commission for administration of the 40842
utilities division in each fiscal year less the total amount to be 40843
recovered from those paying the minimum assessment, in proportion 40844
to the intrastate gross earnings or receipts of the remaining 40845
railroads and public utilities for the calendar year next 40846
preceding that in which the assessments are made. 40847

In the case of an assessment based on intrastate gross 40848
receipts under this section against a public utility that is an 40849
electric utility as defined in section 4928.01 of the Revised 40850
Code, or an electric services company, electric cooperative, or 40851
governmental aggregator subject to certification under section 40852
4928.08 of the Revised Code, such receipts shall be those 40853

specified in the utility's, company's, cooperative's, or 40854
aggregator's most recent report of intrastate gross receipts and 40855
sales of kilowatt hours of electricity, filed with the commission 40856
pursuant to division (F) of section 4928.06 of the Revised Code, 40857
and verified by the commission. 40858

In the case of an assessment based on intrastate gross 40859
receipts under this section against a retail natural gas supplier 40860
or governmental aggregator subject to certification under section 40861
4929.20 of the Revised Code, such receipts shall be those 40862
specified in the supplier's or aggregator's most recent report of 40863
intrastate gross receipts and sales of hundred cubic feet of 40864
natural gas, filed with the commission pursuant to division (B) of 40865
section 4929.23 of the Revised Code, and verified by the 40866
commission. However, no such retail natural gas supplier or such 40867
governmental aggregator serving or proposing to serve customers of 40868
a particular natural gas company, as defined in section 4929.01 of 40869
the Revised Code, shall be assessed under this section until after 40870
the commission, pursuant to section 4905.26 or 4909.18 of the 40871
Revised Code, has removed from the base rates of the natural gas 40872
company the amount of assessment under this section that is 40873
attributable to the value of commodity sales service, as defined 40874
in section 4929.01 of the Revised Code, in the base rates paid by 40875
those customers of the company that do not purchase that service 40876
from the natural gas company. 40877

(B) ~~On~~ Through calendar year 2005, on or before the first day 40878
of October in each year, the commission shall notify each such 40879
railroad and public utility of the sum assessed against it, 40880
whereupon payment shall be made to the commission, which shall 40881
deposit it into the state treasury to the credit of the public 40882
utilities fund, which is hereby created. Beginning in calendar 40883
year 2006, on or before the fifteenth day of May in each year, the 40884
commission shall notify each railroad and public utility that had 40885

a sum assessed against it for the current fiscal year of more than 40886
one thousand dollars that fifty per cent of that amount shall be 40887
paid to the commission by the twentieth day of June of that year 40888
as an initial payment of the assessment against the company for 40889
the next fiscal year. On or before the first day of October in 40890
each year, the commission shall make a final determination of the 40891
sum of the assessment against each railroad and public utility and 40892
shall notify each railroad and public utility of the sum assessed 40893
against it. The commission shall deduct from the assessment for 40894
each railroad or public utility any initial payment received. 40895
Payment of the assessment shall be made to the commission by the 40896
first day of November of that year. The commission shall deposit 40897
the payments received into the state treasury to the credit of the 40898
public utilities fund. Any such amounts paid into the fund but not 40899
expended by the commission shall be credited ratably, after first 40900
deducting any deficits accumulated from prior years, by the 40901
commission to railroads and public utilities that pay more than 40902
the minimum assessment, according to the respective portions of 40903
such sum assessable against them for the ensuing ~~calendar~~ fiscal 40904
year. The assessments for such ~~calendar~~ fiscal year shall be 40905
reduced correspondingly. 40906

(C) Within five days after the beginning of each fiscal year 40907
through fiscal year 2006, the director of budget and management 40908
shall transfer from the general revenue fund to the public 40909
utilities fund an amount sufficient for maintaining and 40910
administering the public utilities commission and exercising its 40911
supervision and jurisdiction over the railroads and public 40912
utilities of the state during the first four months of the fiscal 40913
year. The director shall transfer the same amount back to the 40914
general revenue fund from the public utilities fund at such time 40915
as the director determines that the balance of the public 40916
utilities fund is sufficient to support the appropriations from 40917
the fund for the fiscal year. The director may transfer less than 40918

that amount if the director determines that the revenues of the 40919
public utilities fund during the fiscal year will be insufficient 40920
to support the appropriations from the fund for the fiscal year, 40921
in which case the amount not paid back to the general revenue fund 40922
shall be payable to the general revenue fund in future fiscal 40923
years. 40924

(D) For the purpose of this section only, "public utility" 40925
includes: 40926

(1) In addition to an electric utility as defined in section 40927
4928.01 of the Revised Code, an electric services company, an 40928
electric cooperative, or a governmental aggregator subject to 40929
certification under section 4928.08 of the Revised Code, to the 40930
extent of the company's, cooperative's, or aggregator's engagement 40931
in the business of supplying or arranging for the supply in this 40932
state of any retail electric service for which it must be so 40933
certified; 40934

(2) In addition to a natural gas company as defined in 40935
section 4929.01 of the Revised Code, a retail natural gas supplier 40936
or governmental aggregator subject to certification under section 40937
4929.20 of the Revised Code, to the extent of the supplier's or 40938
aggregator's engagement in the business of supplying or arranging 40939
for the supply in this state of any competitive retail natural gas 40940
service for which it must be certified. 40941

(E) Each public utilities commissioner shall receive a salary 40942
fixed at the level set by pay range 49 under schedule E-2 of 40943
section 124.152 of the Revised Code. 40944

Sec. 4905.261. The public utilities commission shall operate 40945
a telephone call center for consumer complaints, to receive 40946
complaints by any person, firm, or corporation against any public 40947
utility. 40948

Sec. 4905.54. Every public utility or railroad and every 40949
officer of a public utility or railroad shall comply with every 40950
order, direction, and requirement of the public utilities 40951
commission made under authority of this chapter and Chapters 40952
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 40953
so long as they remain in force. Except as otherwise specifically 40954
provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 40955
4923.99 of the Revised Code, the public utilities commission may 40956
assess a forfeiture of not more than ten thousand dollars for each 40957
violation or failure against a public utility or railroad that 40958
violates a provision of those chapters or that after due notice 40959
fails to comply with an order, direction, or requirement of the 40960
commission that was officially promulgated ~~shall forfeit to the~~ 40961
~~state not more than one thousand dollars for each such violation~~ 40962
~~or failure~~. Each day's continuance of the violation or failure is 40963
a separate offense. All forfeitures collected under this section 40964
shall be credited to the general revenue fund. 40965

Sec. 4905.95. (A) Except as otherwise provided in division 40966
(C) of this section: 40967

(1) The public utilities commission, regarding any proceeding 40968
under this section, shall provide reasonable notice and the 40969
opportunity for a hearing in accordance with rules adopted under 40970
section 4901.13 of the Revised Code. 40971

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 40972
4903.20 to 4903.23 of the Revised Code apply to all proceedings 40973
and orders of the commission under this section and to all 40974
operators subject to those proceedings and orders. 40975

(B) If, pursuant to a proceeding it specially initiates or to 40976
any other proceeding and after the hearing provided for under 40977
division (A) of this section, the commission finds that: 40978

(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order:

(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety;

(b) May assess upon the operator forfeitures of not more than ~~ten~~ one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed ~~five hundred thousand~~ one million dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following:

(i) The gravity of the violation or noncompliance;

(ii) The operator's history of prior violations or noncompliances;

(iii) The operator's good faith efforts to comply and undertake corrective action;

(iv) The operator's ability to pay the forfeiture;

(v) The effect of the forfeiture on the operator's ability to continue as an operator;

(vi) Such other matters as justice may require.

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to the credit of the general revenue fund.

(c) May direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code.

(2) An intrastate pipe-line transportation facility is hazardous to life or property, the commission by order:

(a) Shall require the operator of the facility to take 41008
corrective action to remove the hazard. Such corrective action may 41009
include suspended or restricted use of the facility, physical 41010
inspection, testing, repair, replacement, or other action. 41011

(b) May direct the attorney general to seek the remedies 41012
provided in section 4905.96 of the Revised Code. 41013

(C) If, pursuant to a proceeding it specially initiates or to 41014
any other proceeding, the commission finds that an emergency 41015
exists due to a condition on an intrastate pipe-line 41016
transportation facility posing a clear and immediate danger to 41017
life or health or threatening a significant loss of property and 41018
requiring immediate corrective action to protect the public 41019
safety, the commission may issue, without notice or prior hearing, 41020
an order reciting its finding and may direct the attorney general 41021
to seek the remedies provided in section 4905.96 of the Revised 41022
Code. The order shall remain in effect for not more than forty 41023
days after the date of its issuance. The order shall provide for a 41024
hearing as soon as possible, but not later than thirty days after 41025
the date of its issuance. After the hearing the commission shall 41026
continue, revoke, or modify the order and may make findings under 41027
and seek appropriate remedies as provided in division (B) of this 41028
section. 41029

Sec. 4911.02. (A) The consumers' counsel shall be appointed 41030
by the consumers' counsel governing board, and shall hold office 41031
at the pleasure of the board. 41032

(B)(1) The counsel may sue or be sued and has the powers and 41033
duties granted ~~him~~ the counsel under this chapter, and all 41034
necessary powers to carry out the purposes of this chapter. 41035

(2) Without limitation because of enumeration, the counsel: 41036

(a) Shall have all the rights and powers of any party in 41037

interest appearing before the public utilities commission 41038
regarding examination and cross-examination of witnesses, 41039
presentation of evidence, and other matters; 41040

(b) May take appropriate action with respect to written 41041
residential consumer complaints concerning quality of service, 41042
service charges, and the operation of the public utilities 41043
commission; 41044

(c) May institute, intervene in, or otherwise participate in 41045
proceedings in both state and federal courts and administrative 41046
agencies on behalf of the residential consumers concerning review 41047
of decisions rendered by, or failure to act by, the public 41048
utilities commission; 41049

(d) May conduct long range studies concerning various topics 41050
relevant to the rates charged to ~~residential~~ residential consumers. 41051

Sec. 4911.021. The consumers' counsel shall not operate a 41052
telephone call consumer response center for residential consumer 41053
complaints. Any calls received by the consumers' counsel 41054
concerning residential consumer complaints shall be forwarded to 41055
the public utilities commission's call center. 41056

Sec. 4911.18. (A) For the sole purpose of maintaining and 41057
administering the office of the consumers' counsel and exercising 41058
the powers of the consumers' counsel under this chapter, an amount 41059
equal to the appropriation to the office of the consumers' counsel 41060
in each fiscal year shall be apportioned among and assessed 41061
against each public utility within this state, as defined in 41062
section 4911.01 of the Revised Code, by first computing an 41063
assessment as though it were to be made in proportion to the 41064
intrastate gross earnings or receipts of the public utility for 41065
the calendar year next preceding that in which the assessment is 41066
made, excluding earnings or receipts from sales to other public 41067

utilities for resale. The office may include in that first 41068
computation any amount of a public utility's intrastate gross 41069
earnings or receipts underreported in a prior year. In addition to 41070
whatever penalties apply under the Revised Code to such 41071
underreporting, the office shall assess the public utility 41072
interest at the rate stated in division (A) of section 1343.01 of 41073
the Revised Code. The office shall deposit any interest so 41074
collected into the consumers' counsel operating fund. The office 41075
may exclude from that first computation any such amounts that were 41076
over-reported in a prior year. 41077

The final computation of the assessment shall consist of 41078
imposing upon each public utility whose assessment under the first 41079
computation would have been fifty one hundred dollars or less an 41080
assessment of fifty one hundred dollars and recomputing the 41081
assessment of the remaining companies by apportioning an amount 41082
equal to the appropriation to the office of consumers' counsel in 41083
each fiscal year less the total amount to be recovered from those 41084
paying the minimum assessment, in proportion to the intrastate 41085
gross earnings or receipts of the remaining companies for the 41086
calendar year next preceding that in which the assessments are 41087
made, excluding earnings or receipts from sales to other public 41088
utilities for resale. 41089

In the case of an assessment based on intrastate gross 41090
receipts under this section against a public utility that is an 41091
electric utility as defined in section 4928.01 of the Revised 41092
Code, or an electric services company, electric cooperative, or 41093
governmental aggregator subject to certification under section 41094
4928.08 of the Revised Code, such receipts shall be those 41095
specified in the utility's, company's, cooperative's, or 41096
aggregator's most recent report of intrastate gross receipts and 41097
sales of kilowatt hours of electricity, filed with the public 41098
utilities commission pursuant to division (F) of section 4928.06 41099

of the Revised Code, and verified by the commission. 41100

In the case of an assessment based on intrastate gross 41101
receipts under this section against a retail natural gas supplier 41102
or governmental aggregator subject to certification under section 41103
4929.20 of the Revised Code, such receipts shall be those 41104
specified in the supplier's or aggregator's most recent report of 41105
intrastate gross receipts and sales of hundred cubic feet of 41106
natural gas, filed with the commission pursuant to division (B) of 41107
section 4929.23 of the Revised Code, and verified by the 41108
commission. However, no such retail natural gas supplier or such 41109
governmental aggregator serving or proposing to serve customers of 41110
a particular natural gas company, as defined in section 4929.01 of 41111
the Revised Code, shall be assessed under this section until after 41112
the commission, pursuant to section 4905.26 or 4909.18 of the 41113
Revised Code, has removed from the base rates of the natural gas 41114
company the amount of assessment under this section that is 41115
attributable to the value of commodity sales service, as defined 41116
in section 4929.01 of the Revised Code, in the base rates paid by 41117
those customers of the company that do not purchase that service 41118
from the natural gas company. 41119

(B) ~~On~~ Through calendar year 2005, on or before the first day 41120
of October in each year, the office of consumers' counsel shall 41121
notify each public utility of the sum assessed against it, 41122
whereupon payment shall be made to the counsel, who shall deposit 41123
it into the state treasury to the credit of the consumers' counsel 41124
operating fund, which is hereby created. Beginning in calendar 41125
year 2006, on or before the fifteenth day of May in each year, the 41126
consumers' counsel shall notify each public utility that had a sum 41127
assessed against it for the current fiscal year of more than one 41128
thousand dollars that fifty per cent of that amount shall be paid 41129
to the consumers' counsel by the twentieth day of June of that 41130
year as an initial payment of the assessment against the company 41131

for the next fiscal year. On or before the first day of October in 41132
each year, the consumers' counsel shall make a final determination 41133
of the sum of the assessment against each public utility and shall 41134
notify each public utility of the sum assessed against it. The 41135
consumers' counsel shall deduct from the assessment for each 41136
public utility any initial payment received. Payment of the 41137
assessment shall be made to the consumers' counsel by the first 41138
day of November of that year. The consumers' counsel shall deposit 41139
the payments received into the state treasury to the credit of the 41140
consumers' counsel operating fund. Any such amounts paid into the 41141
fund but not expended by the office shall be credited ratably by 41142
the office to the public utilities that pay more than the minimum 41143
assessment, according to the respective portions of such sum 41144
assessable against them for the ensuing ~~calendar~~ fiscal year, 41145
after first deducting any deficits accumulated from prior years. 41146
The assessments for such ~~calendar~~ fiscal year shall be reduced 41147
correspondingly. 41148

(C) Within five days after the beginning of each fiscal year 41149
through fiscal year 2006, the director of budget and management 41150
shall transfer from the general revenue fund to the consumers' 41151
counsel operating fund an amount sufficient for maintaining and 41152
administering the office of the consumers' counsel and exercising 41153
the powers of the consumers' counsel under this chapter during the 41154
first four months of the fiscal year. Not later than the 41155
thirty-first day of December of the fiscal year, the same amount 41156
shall be transferred back to the general revenue fund from the 41157
consumers' counsel operating fund. 41158

(D) As used in this section, "public utility" includes: 41159

(1) In addition to an electric utility as defined in section 41160
4928.01 of the Revised Code, an electric services company, an 41161
electric cooperative, or a governmental aggregator subject to 41162
certification under section 4928.08 of the Revised Code, to the 41163

extent of the company's, cooperative's, or aggregator's engagement 41164
in the business of supplying or arranging for the supply in this 41165
state of any retail electric service for which it must be so 41166
certified; 41167

(2) In addition to a natural gas company as defined in 41168
section 4929.01 of the Revised Code, a retail natural gas supplier 41169
or governmental aggregator subject to certification under section 41170
4929.20 of the Revised Code, to the extent of the supplier's or 41171
aggregator's engagement in the business of supplying or arranging 41172
for the supply in this state of any competitive retail natural gas 41173
service for which it must be certified. 41174

Sec. 4973.171. (A) As used in this section, "felony" has the 41175
same meaning as in section 109.511 of the Revised Code. 41176

(B)(1) The ~~governor~~ secretary of state shall not appoint or 41177
commission a person as a police officer for a railroad company 41178
under division (B) of section 4973.17 of the Revised Code and 41179
shall not appoint or commission a person as a police officer for a 41180
hospital under division (D) of section 4973.17 of the Revised Code 41181
on a permanent basis, on a temporary basis, for a probationary 41182
term, or on other than a permanent basis if the person previously 41183
has been convicted of or has pleaded guilty to a felony. 41184

(2)(a) The ~~governor~~ secretary of state shall revoke the 41185
appointment or commission of a person appointed or commissioned as 41186
a police officer for a railroad company or as a police officer for 41187
a hospital under division (B) or (D) of section 4973.17 of the 41188
Revised Code if that person does either of the following: 41189

(i) Pleads guilty to a felony; 41190

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 41191
plea agreement as provided in division (D) of section 2929.43 of 41192
the Revised Code in which the person agrees to surrender the 41193

certificate awarded to that person under section 109.77 of the Revised Code. 41194
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(b) The ~~governor~~ secretary of state shall suspend the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony. 41196
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(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997. 41217
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(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code. 41219
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Sec. 5101.07. There is hereby created in the state treasury 41224

the support services federal operating fund. The fund shall 41225
consist of federal funds the department of job and family services 41226
receives and that the director of job and family services 41227
determines are appropriate for deposit into the fund. Money in the 41228
fund shall be used to pay the federal share of both of the 41229
following: 41230

(A) The department's costs for computer projects; 41231

(B) The operating costs of the parts of the department that 41232
provide general support services for the department's work units 41233
established under section 5101.06 of the Revised Code. 41234

Sec. 5101.071. There is hereby created in the state treasury 41235
the support services state operating fund. The fund shall consist 41236
of payments made to the fund from other appropriation items by 41237
intrastate transfer voucher. Money in the fund shall be used to 41238
pay for both of the following: 41239

(A) The department of job and family services' costs for 41240
computer projects; 41241

(B) The operating costs of the parts of the department that 41242
provide general support services for the department's work units 41243
established under section 5101.06 of the Revised Code. 41244

Sec. 5101.181. (A) As used in this section and section 41245
5101.182 of the Revised Code, "public assistance" includes, in 41246
addition to Ohio works first, all of the following: 41247

(1) Prevention, retention, and contingency; 41248

(2) Medicaid; 41249

(3) Disability financial assistance; 41250

(4) Disability medical assistance provided before October 1, 41251
2005, under former Chapter 5115. of the Revised Code; 41252

(5) General assistance provided prior to July 17, 1995, under 41253
former Chapter 5113. of the Revised Code. 41254

(B) As part of the procedure for the determination of 41255
overpayment to a recipient of public assistance under Chapter 41256
5107., 5108., 5111., or 5115. of the Revised Code, the director of 41257
job and family services shall furnish quarterly the name and 41258
social security number of each individual who receives public 41259
assistance to the director of administrative services, the 41260
administrator of the bureau of workers' compensation, and each of 41261
the state's retirement boards. Within fourteen days after 41262
receiving the name and social security number of an individual who 41263
receives public assistance, the director of administrative 41264
services, administrator, or board shall inform the auditor of 41265
state as to whether such individual is receiving wages or 41266
benefits, the amount of any wages or benefits being received, the 41267
social security number, and the address of the individual. The 41268
director of administrative services, administrator, boards, and 41269
any agent or employee of those officials and boards shall comply 41270
with the rules of the director of job and family services 41271
restricting the disclosure of information regarding recipients of 41272
public assistance. Any person who violates this provision shall 41273
thereafter be disqualified from acting as an agent or employee or 41274
in any other capacity under appointment or employment of any state 41275
board, commission, or agency. 41276

(C) The auditor of state may enter into a reciprocal 41277
agreement with the director of job and family services or 41278
comparable officer of any other state for the exchange of names, 41279
current or most recent addresses, or social security numbers of 41280
persons receiving public assistance under Title IV-A or under 41281
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 41282
U.S.C. 301, as amended. 41283

(D)(1) The auditor of state shall retain, for not less than 41284

two years, at least one copy of all information received under 41285
this section and sections 145.27, 742.41, 3307.20, 3309.22, 41286
4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor 41287
shall review the information to determine whether overpayments 41288
were made to recipients of public assistance under Chapters 5107., 41289
5108., 5111., and 5115. of the Revised Code. The auditor of state 41290
shall initiate action leading to prosecution, where warranted, of 41291
recipients who received overpayments by forwarding the name of 41292
each recipient who received overpayment, together with other 41293
pertinent information, to the director of job and family services 41294
and the attorney general, to the district director of job and 41295
family services of the district through which public assistance 41296
was received, and to the county director of job and family 41297
services and county prosecutor of the county through which public 41298
assistance was received. 41299

(2) The auditor of state and the attorney general or their 41300
designees may examine any records, whether in computer or printed 41301
format, in the possession of the director of job and family 41302
services or any county director of job and family services. They 41303
shall provide safeguards which restrict access to such records to 41304
purposes directly connected with an audit or investigation, 41305
prosecution, or criminal or civil proceeding conducted in 41306
connection with the administration of the programs and shall 41307
comply with the rules of the director of job and family services 41308
restricting the disclosure of information regarding recipients of 41309
public assistance. Any person who violates this provision shall 41310
thereafter be disqualified from acting as an agent or employee or 41311
in any other capacity under appointment or employment of any state 41312
board, commission, or agency. 41313

(3) Costs incurred by the auditor of state in carrying out 41314
the auditor of state's duties under this division shall be borne 41315
by the auditor of state. 41316

Sec. 5101.21. (A) As used in this section, "county signer" 41317
means all of the following: 41318

(1) A board of county commissioners; 41319

(2) A county children services board appointed under section 41320
5153.03 of the Revised Code if required by division (B) of this 41321
section to enter into a fiscal agreement; 41322

(3) A county elected official that is a child support 41323
enforcement agency if required by division (B) of this section to 41324
enter into a fiscal agreement. 41325

(B) The director of job and family services may enter into 41326
one or more written fiscal agreements with boards of county 41327
commissioners under which financial assistance is awarded for 41328
family services duties included in the agreements. Boards of 41329
county commissioners shall select which family services duties to 41330
include in a fiscal agreement. If a board of county commissioners 41331
elects to include family services duties of a public children 41332
services agency and a county children services board appointed 41333
under section 5153.03 of the Revised Code serves as the county's 41334
public children services agency, the board of county commissioners 41335
and county children services board shall jointly enter into the 41336
fiscal agreement with the director. If a board of county 41337
commissioners elects to include family services duties of a child 41338
support enforcement agency and the entity designated under former 41339
section 2301.35 of the Revised Code prior to October 1, 1997, or 41340
designated under section 307.981 of the Revised Code as the 41341
county's child support enforcement agency is an elected official 41342
of the county, the board of county commissioners and county 41343
elected official shall jointly enter into the fiscal agreement 41344
with the director. A fiscal agreement shall do all of the 41345
following: 41346

- (1) Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties; 41347
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- (2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section; 41351
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- (3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement; 41356
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- (4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly; 41362
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- (5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code; 41365
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- (6) Include the assurance of each county signer that the county signer will do all of the following: 41368
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- (a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department 41370
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and a federal agency, and executive orders issued by the governor; 41378

(b) Ensure that the board and county family services agencies 41379
utilize a financial management system and other accountability 41380
mechanisms for the financial assistance awarded under the 41381
agreement that meet requirements the department establishes; 41382

(c) Require the county family services agencies to do both of 41383
the following: 41384

(i) Monitor all private and government entities that receive 41385
a payment from financial assistance awarded under the agreement to 41386
ensure that each entity uses the payment in accordance with 41387
requirements for the family services duties included in the 41388
agreement; 41389

(ii) Take action to recover payments that are not used in 41390
accordance with the requirements for the family services duties 41391
included in the agreement. 41392

(d) Require county family services agencies to promptly 41393
reimburse the department the amount that represents the amount an 41394
agency is responsible for, pursuant to action the department takes 41395
under division (C) of section 5101.24 of the Revised Code, of 41396
funds the department pays to any entity because of an adverse 41397
audit finding, adverse quality control finding, final disallowance 41398
of federal financial participation, or other sanction or penalty; 41399

(e) Require county family services agencies to take prompt 41400
corrective action, including paying amounts resulting from an 41401
adverse finding, sanction, or penalty, if the department, auditor 41402
of state, federal agency, or other entity authorized by federal or 41403
state law to determine compliance with requirements for a family 41404
services duty included in the agreement determines compliance has 41405
not been achieved; 41406

~~(f) If the department establishes a consolidated funding 41407~~

~~allocation for two or more family services duties included in the 41408~~
~~agreement, require the county family services agencies to use 41409~~
~~funds available in the consolidated funding allocation only for 41410~~
~~the purpose for which the funds are appropriated. 41411~~

(7) Provide for the department taking action pursuant to 41412
division (C) of section 5101.24 of the Revised Code if authorized 41413
by division (B)(1), (2), (3), or (4) of that section; 41414

(8) Provide for timely audits required by federal and state 41415
law and require prompt release of audit findings and prompt action 41416
to correct problems identified in an audit; 41417

(9) Comply with all of the requirements for the family 41418
services duties that are included in the agreement and have been 41419
established by the department, federal or state law, or any of the 41420
following that concern the family services duties included in the 41421
fiscal agreement and are published under section 5101.212 of the 41422
Revised Code: state plans for receipt of federal financial 41423
participation, grant agreements between the department and a 41424
federal agency, and executive orders issued by the governor; 41425

(10) Provide for dispute resolution procedures in accordance 41426
with section 5101.24 of the Revised Code; 41427

(11) Establish the method of amending or terminating the 41428
agreement and an expedited process for correcting terms or 41429
conditions of the agreement that the director and each county 41430
signer agree are erroneous; 41431

(12) Except as provided in rules adopted under division (D) 41432
of this section, begin on the first day of July of an odd-numbered 41433
year and end on the last day of June of the next odd-numbered 41434
year. 41435

(C) The department shall make payments authorized by a fiscal 41436
agreement on vouchers it prepares and may include any funds 41437

appropriated or allocated to it for carrying out family services 41438
duties included in the agreement, including funds for personal 41439
services and maintenance. 41440

(D)(1) The director shall adopt rules in accordance with 41441
section 111.15 of the Revised Code governing fiscal agreements. 41442
The director shall adopt the rules as if they were internal 41443
management rules. Before adopting the rules, the director shall 41444
give the public an opportunity to review and comment on the 41445
proposed rules. The rules shall establish methodologies to be used 41446
to determine the amount of financial assistance to be awarded 41447
under the agreements. The rules also shall establish terms and 41448
conditions under which an agreement may be entered into after the 41449
first day of July of an odd-numbered year. The rules may do any or 41450
all of the following: 41451

~~(a) Govern the establishment of consolidated funding 41452
allocations and specify the time period for which a consolidated 41453
funding allocation is to be provided if the effective date of the 41454
agreement is after the first day of July of an odd numbered year, 41455
which may include a time period before the effective date of the 41456
agreement;~~ 41457

~~(b)~~ Govern the establishment of ~~other~~ allocations; 41458

~~(e)~~(b) Specify allowable uses of financial assistance awarded 41459
under the agreements; 41460

~~(d)~~(c) Establish reporting, cash management, audit, and other 41461
requirements the director determines are necessary to provide 41462
accountability for the use of financial assistance awarded under 41463
the agreements and determine compliance with requirements 41464
established by the department, a federal or state law, or any of 41465
the following that concern the family services duties included in 41466
the agreements and are published under section 5101.212 of the 41467
Revised Code: state plans for receipt of federal financial 41468

participation, grant agreements between the department and a 41469
federal entity, and executive orders issued by the governor. 41470

(2) A requirement of a fiscal agreement established by a rule 41471
adopted under this division is applicable to a fiscal agreement 41472
without having to be restated in the fiscal agreement. 41473

Sec. 5101.24. (A) As used in this section, "responsible 41474
entity" means a board of county commissioners or a county family 41475
services agency, whichever the director of job and family services 41476
determines is appropriate to take action against under division 41477
(C) of this section. 41478

(B) Regardless of whether a family services duty is performed 41479
by a county family services agency, private or government entity 41480
pursuant to a contract entered into under section 307.982 of the 41481
Revised Code or division (C)(2) of section 5153.16 of the Revised 41482
Code, or private or government provider of a family service duty, 41483
the department of job and family services may take action under 41484
division (C) of this section against the responsible entity if the 41485
department determines any of the following are the case: 41486

(1) A requirement of a fiscal agreement entered into under 41487
section 5101.21 of the Revised Code that includes the family 41488
services duty, including a requirement for fiscal agreements 41489
established by rules adopted under that section, is not complied 41490
with; 41491

(2) A county family services agency fails to develop, submit 41492
to the department, or comply with a corrective action plan under 41493
division (B) of section 5101.221 of the Revised Code, or the 41494
department disapproves the agency's corrective action plan 41495
developed under division (B) of section 5101.221 of the Revised 41496
Code; 41497

(3) A requirement for the family services duty established by 41498

the department or any of the following is not complied with: a 41499
federal or state law, state plan for receipt of federal financial 41500
participation, grant agreement between the department and a 41501
federal agency, or executive order issued by the governor; 41502

(4) The responsible entity is solely or partially 41503
responsible, as determined by the director of job and family 41504
services, for an adverse audit finding, adverse quality control 41505
finding, final disallowance of federal financial participation, or 41506
other sanction or penalty regarding the family services duty. 41507

(5) The responsible entity is solely or partially 41508
responsible, as determined by the director of job and family 41509
services, for failure to comply with a requirement established 41510
under Title IV-A of the "Social Security Act," 110 Stat. 2113 41511
(1996), 42 U.S.C. 601, as amended, that results in the state being 41512
required to increase its qualified state expenditures as defined 41513
in 42 U.S.C. 609(a)(7)(B)(i), to avoid a penalty under 42 U.S.C. 41514
609(a)(7). 41515

(C) The department may take one or more of the following 41516
actions against the responsible entity when authorized by division 41517
(B)(1), (2), (3), or (4) of this section: 41518

(1) Require the responsible entity to comply with a 41519
corrective action plan pursuant to a time schedule specified by 41520
the department. The corrective action plan shall be established or 41521
approved by the department and shall not require a county family 41522
services agency to commit resources to the plan. 41523

(2) Require the responsible entity to comply with a 41524
corrective action plan pursuant to a time schedule specified by 41525
the department. The corrective action plan shall be established or 41526
approved by the department and require a county family services 41527
agency to commit to the plan existing resources identified by the 41528
agency. 41529

(3) Require the responsible entity to do one of the	41530
following:	41531
(a) Share with the department a final disallowance of federal	41532
financial participation or other sanction or penalty;	41533
(b) Reimburse the department the final amount the department	41534
pays to the federal government or another entity that represents	41535
the amount the responsible entity is responsible for of an adverse	41536
audit finding, adverse quality control finding, final disallowance	41537
of federal financial participation, or other sanction or penalty	41538
issued by the federal government, auditor of state, or other	41539
entity;	41540
(c) Pay the federal government or another entity the final	41541
amount that represents the amount the responsible entity is	41542
responsible for of an adverse audit finding, adverse quality	41543
control finding, final disallowance of federal financial	41544
participation, or other sanction or penalty issued by the federal	41545
government, auditor of state, or other entity;	41546
(d) Pay the department the final amount that represents the	41547
amount the responsible entity is responsible for of an adverse	41548
audit finding or adverse quality control finding.	41549
(4) Impose an administrative sanction issued by the	41550
department against the responsible entity. A sanction may be	41551
increased if the department has previously taken action against	41552
the responsible entity under this division.	41553
(5) Perform, or contract with a government or private entity	41554
for the entity to perform, the family services duty until the	41555
department is satisfied that the responsible entity ensures that	41556
the duty will be performed satisfactorily. If the department	41557
performs or contracts with an entity to perform a family services	41558
duty under division (C)(5) of this section, the department may do	41559
either or both of the following:	41560

(a) Spend funds in the county treasury appropriated by the board of county commissioners for the duty;

(b) Withhold funds allocated or reimbursements due to the responsible entity for the duty and spend the funds for the duty.

(6) Request that the attorney general bring mandamus proceedings to compel the responsible entity to take or cease the action that causes division (B)(1), (2), (3), or (4) of this section to apply. The attorney general shall bring mandamus proceedings in the Franklin county court of appeals at the department's request.

(7) If the department takes action under this division because of division (B)(3) of this section, temporarily withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(8) If the department takes action under this division because of division (B)(5) of this section, increase the county's share of public assistance expenditures under section 5101.16 of the Revised Code to the extent the responsible entity is responsible for the state being required to increase its qualified state expenditures.

(D) If the department proposes to take action against the responsible entity under division (C) of this section, the department shall notify the responsible entity and county auditor. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail.

Except as provided by division (E) of this section, the responsible entity may request an administrative review of a

proposed action in accordance with administrative review 41592
procedures the department shall establish. The administrative 41593
review procedures shall comply with all of the following: 41594

(1) A request for an administrative review shall state 41595
specifically all of the following: 41596

(a) The proposed action specified in the notice from the 41597
department for which the review is requested; 41598

(b) The reason why the responsible entity believes the 41599
proposed action is inappropriate; 41600

(c) All facts and legal arguments that the responsible entity 41601
wants the department to consider; 41602

(d) The name of the person who will serve as the responsible 41603
entity's representative in the review. 41604

(2) If the department's notice specifies more than one 41605
proposed action and the responsible entity does not specify all of 41606
the proposed actions in its request pursuant to division (D)(1)(a) 41607
of this section, the proposed actions not specified in the request 41608
shall not be subject to administrative review and the parts of the 41609
notice regarding those proposed actions shall be final and binding 41610
on the responsible entity. 41611

(3) In the case of a proposed action under division (C)(1) of 41612
this section, the responsible entity shall have fifteen calendar 41613
days after the department mails the notice to the responsible 41614
entity to send a written request to the department for an 41615
administrative review. If it receives such a request within the 41616
required time, the department shall postpone taking action under 41617
division (C)(1) of this section for fifteen calendar days 41618
following the day it receives the request or extended period of 41619
time provided for in division (D)(5) of this section to allow a 41620
representative of the department and a representative of the 41621

responsible entity an informal opportunity to resolve any dispute 41622
during that fifteen-day or extended period. 41623

(4) In the case of a proposed action under division (C)(2), 41624
(3), (4), (5), ~~or (7)~~, or (8) of this section, the responsible 41625
entity shall have thirty calendar days after the department mails 41626
the notice to the responsible entity to send a written request to 41627
the department for an administrative review. If it receives such a 41628
request within the required time, the department shall postpone 41629
taking action under division (C)(2), (3), (4), (5), ~~or (7)~~, or (8) 41630
of this section for thirty calendar days following the day it 41631
receives the request or extended period of time provided for in 41632
division (D)(5) of this section to allow a representative of the 41633
department and a representative of the responsible entity an 41634
informal opportunity to resolve any dispute during that thirty-day 41635
or extended period. 41636

(5) If the informal opportunity provided in division (D)(3) 41637
or (4) of this section does not result in a written resolution to 41638
the dispute within the fifteen- or thirty-day period, the director 41639
of job and family services and representative of the responsible 41640
entity may enter into a written agreement extending the time 41641
period for attempting an informal resolution of the dispute under 41642
division (D)(3) or (4) of this section. 41643

(6) In the case of a proposed action under division (C)(3) of 41644
this section, the responsible entity may not include in its 41645
request disputes over a finding, final disallowance of federal 41646
financial participation, or other sanction or penalty issued by 41647
the federal government, auditor of state, or entity other than the 41648
department. 41649

(7) If the responsible entity fails to request an 41650
administrative review within the required time, the responsible 41651
entity loses the right to request an administrative review of the 41652

proposed actions specified in the notice and the notice becomes 41653
final and binding on the responsible entity. 41654

(8) If the informal opportunity provided in division (D)(3) 41655
or (4) of this section does not result in a written resolution to 41656
the dispute within the time provided by division (D)(3), (4), or 41657
(5) of this section, the director shall appoint an administrative 41658
review panel to conduct the administrative review. The review 41659
panel shall consist of department employees and one director or 41660
other representative of the type of county family services agency 41661
that is responsible for the kind of family services duty that is 41662
the subject of the dispute and serves a different county than the 41663
county served by the responsible entity. No individual involved in 41664
the department's proposal to take action against the responsible 41665
entity may serve on the review panel. The review panel shall 41666
review the responsible entity's request. The review panel may 41667
require that the department or responsible entity submit 41668
additional information and schedule and conduct an informal 41669
hearing to obtain testimony or additional evidence. A review of a 41670
proposal to take action under division (C)(3) of this section 41671
shall be limited solely to the issue of the amount the responsible 41672
entity shall share with the department, reimburse the department, 41673
or pay to the federal government, department, or other entity 41674
under division (C)(3) of this section. The review panel is not 41675
required to make a stenographic record of its hearing or other 41676
proceedings. 41677

(9) After finishing an administrative review, an 41678
administrative review panel appointed under division (D)(8) of 41679
this section shall submit a written report to the director setting 41680
forth its findings of fact, conclusions of law, and 41681
recommendations for action. The director may approve, modify, or 41682
disapprove the recommendations. If the director modifies or 41683
disapproves the recommendations, the director shall state the 41684

reasons for the modification or disapproval and the actions to be taken against the responsible entity. 41685
41686

(10) The director's approval, modification, or disapproval under division (D)(9) of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review. 41687
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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: 41691
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(1) An action taken under division (C)(6) of this section; 41694

(2) An action taken under section 5101.242 of the Revised Code; 41695
41696

(3) An action taken under division (C)(3) of this section if the federal government, auditor of state, or entity other than the department has identified the county family services agency 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; 41697
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(4) An adjustment to an allocation, cash draw, advance, or reimbursement to a county family services agency that the department determines necessary for budgetary reasons; 41703
41704
41705

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code. 41706
41707
41708

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section. 41709
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(G) The director of job and family services may adopt rules 41714

in accordance with Chapter 119. of the Revised Code as necessary 41715
to implement this section. 41716

Sec. 5101.241. (A) As used in this section: 41717

(1) "Local area" and "chief elected official" have the same 41718
meaning as in section 5101.20 of the Revised Code. 41719

(2) "Responsible entity" means the chief elected officials of 41720
a local area. 41721

(B) The department of job and family services may take action 41722
under division (C) of this section against the responsible entity, 41723
regardless of who performs the workforce development activity, if 41724
the department determines any of the following are the case: 41725

(1) A requirement of a grant agreement entered into under 41726
section 5101.20 of the Revised Code that includes the workforce 41727
development activity, including a requirement for grant agreements 41728
established by rules adopted under that section, is not complied 41729
with; 41730

(2) A performance standard for the workforce development 41731
activity established by the federal government or the department 41732
is not met; 41733

(3) A requirement for the workforce development activity 41734
established by the department or any of the following is not 41735
complied with: a federal or state law, state plan for receipt of 41736
federal financial participation, grant agreement between the 41737
department and a federal agency, or executive order; 41738

(4) The responsible entity is solely or partially 41739
responsible, as determined by the director of job and family 41740
services, for an adverse audit finding, adverse quality control 41741
finding, final disallowance of federal financial participation, or 41742
other sanction or penalty regarding the workforce development 41743
activity. 41744

(C) The department may take one or more of the following 41745
actions against the responsible entity when authorized by division 41746
(B)(1), (2), (3), or (4) of this section: 41747

(1) Require the responsible entity to submit to and comply 41748
with a corrective action plan, established or approved by the 41749
department, pursuant to a time schedule specified by the 41750
department; 41751

(2) Require the responsible entity to do one of the 41752
following: 41753

(a) Share with the department a final disallowance of federal 41754
financial participation or other sanction or penalty; 41755

(b) Reimburse the department the amount the department pays 41756
to the federal government or another entity that represents the 41757
amount the responsible entity is responsible for of an adverse 41758
audit finding, adverse quality control finding, final disallowance 41759
of federal financial participation, or other sanction or penalty 41760
issued by the federal government, auditor of state, or other 41761
entity; 41762

(c) Pay the federal government or another entity the amount 41763
that represents the amount the responsible entity is responsible 41764
for of an adverse audit finding, adverse quality control finding, 41765
final disallowance of federal financial participation, or other 41766
sanction or penalty issued by the federal government, auditor of 41767
state, or other entity; 41768

(d) Pay the department the amount that represents the amount 41769
the responsible entity is responsible for of an adverse audit 41770
finding, adverse quality control finding, or other sanction or 41771
penalty issued by the department. 41772

(3) Impose a financial or administrative sanction or adverse 41773
audit finding issued by the department against the responsible 41774

entity, which may be increased with each subsequent action taken 41775
against the responsible entity-; 41776

(4) Perform or contract with a government or private entity 41777
for the entity to perform the workforce development activity until 41778
the department is satisfied that the responsible entity ensures 41779
that the activity will be performed to the department's 41780
satisfaction. If the department performs or contracts with an 41781
entity to perform the workforce development activity under 41782
division (C)(4) of this section, the department may withhold funds 41783
allocated to or reimbursements due to the responsible entity for 41784
the activity and use those funds to implement division (C)(4) of 41785
this section. 41786

(5) Request the attorney general to bring mandamus 41787
proceedings to compel the responsible entity to take or cease the 41788
actions listed in division (B) of this section. The attorney 41789
general shall bring any mandamus proceedings in the Franklin 41790
county court of appeals at the department's request. 41791

(6) If the department takes action under this division 41792
because of division (B)(3) of this section, withhold funds 41793
allocated or reimbursement due to the responsible entity until the 41794
department determines that the responsible entity is in compliance 41795
with the requirement. The department shall release the funds when 41796
the department determines that compliance has been achieved. 41797

(7) Issue a notice of intent to revoke approval of all or 41798
part of the local plan effected that conflicts with state or 41799
federal law and effectuate the revocation. 41800

(D) The department shall notify the responsible entity and 41801
the appropriate county auditor when the department proposes to 41802
take action under division (C) of this section. The notice shall 41803
be in writing and specify the action the department proposes to 41804
take. The department shall send the notice by regular United 41805

States mail. Except as provided in division (E) of this section, 41806
the responsible entity may request an administrative review of a 41807
proposed action in accordance with administrative review 41808
procedures the department shall establish. The administrative 41809
review procedures shall comply with all of the following: 41810

(1) A request for an administrative review shall state 41811
specifically all of the following: 41812

(a) The proposed action specified in the notice from the 41813
department for which the review is requested; 41814

(b) The reason why the responsible entity believes the 41815
proposed action is inappropriate; 41816

(c) All facts and legal arguments that the responsible entity 41817
wants the department to consider; 41818

(d) The name of the person who will serve as the responsible 41819
entity's representative in the review. 41820

(2) If the department's notice specifies more than one 41821
proposed action and the responsible entity does not specify all of 41822
the proposed actions in its request pursuant to division (D)(1)(a) 41823
of this section, the proposed actions not specified in the request 41824
shall not be subject to administrative review and the parts of the 41825
notice regarding those proposed actions shall be final and binding 41826
on the responsible entity. 41827

~~(3) In the case of a proposed action under division (C)(1) of~~ 41828
~~this section, the~~ The responsible entity shall have fifteen 41829
calendar days after the department mails the notice to the 41830
responsible entity to send a written request to the department for 41831
an administrative review. ~~If it receives such a request within the~~ 41832
~~required time, the department shall postpone taking action under~~ 41833
~~division (C)(1) of this section for fifteen calendar days~~ 41834
~~following the day it receives the request to allow a~~ 41835

~~representative of the department and a representative of the~~ 41836
~~responsible entity an informal opportunity to resolve any dispute~~ 41837
~~during that fifteen day period. The responsible entity and the~~ 41838
~~department shall attempt to resolve informally any dispute and may~~ 41839
~~develop a written resolution to the dispute at any time prior to~~ 41840
~~submitting the written report described in division (D)(7) of this~~ 41841
~~section to the director.~~ 41842

~~(4) In the case of a proposed action under division (C)(2),~~ 41843
~~(3), or (4) of this section, the responsible entity shall have~~ 41844
~~thirty calendar days after the department mails the notice to the~~ 41845
~~responsible entity to send a written request to the department for~~ 41846
~~an administrative review. If it receives such a request within the~~ 41847
~~required time, the department shall postpone taking action under~~ 41848
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 41849
~~days following the day it receives the request to allow a~~ 41850
~~representative of the department and a representative of the~~ 41851
~~responsible entity an informal opportunity to resolve any dispute~~ 41852
~~during that thirty day period.~~ 41853

~~(5) In the case of a proposed action under division (C)(2) of~~ 41854
~~this section, the responsible entity may not include in its~~ 41855
~~request disputes over a finding, final disallowance of federal~~ 41856
~~financial participation, or other sanction or penalty issued by~~ 41857
~~the federal government, auditor of state, or other entity other~~ 41858
~~than the department.~~ 41859

~~(6)(5) If the responsible entity fails to request an~~ 41860
~~administrative review within the required time, the responsible~~ 41861
~~entity loses the right to request an administrative review of the~~ 41862
~~proposed actions specified in the notice and the notice becomes~~ 41863
~~final and binding on the responsible entity.~~ 41864

~~(7) If the informal opportunity provided in division (D)(3)~~ 41865
~~or (4) of this section does not result in a written resolution to~~ 41866
~~the dispute, the (6) The director of job and family services shall~~ 41867

appoint an administrative review panel to conduct the 41868
administrative review. The review panel shall consist of 41869
department employees who are not involved in the department's 41870
proposal to take action against the responsible entity. The review 41871
panel shall review the responsible entity's request. The review 41872
panel may require that the department or responsible entity submit 41873
additional information and schedule and conduct an informal 41874
hearing to obtain testimony or additional evidence. A review of a 41875
proposal to take action under division (C)(2) of this section 41876
shall be limited solely to the issue of the amount the responsible 41877
entity shall share with the department, reimburse the department, 41878
or pay to the federal government, department, or other entity 41879
under division (C)(2) of this section. The review panel is not 41880
required to make a stenographic record of its hearing or other 41881
proceedings. 41882

~~(8)(7)~~ After finishing an administrative review, an 41883
administrative review panel appointed under division (D)~~(7)(6)~~ of 41884
this section shall submit a written report to the director setting 41885
forth its findings of fact, conclusions of law, and 41886
recommendations for action. The director may approve, modify, or 41887
disapprove the recommendations. ~~If the director modifies or~~ 41888
~~disapproves the recommendations, the director shall state the~~ 41889
~~reasons for the modification or disapproval and the actions to be~~ 41890
~~taken against the responsible entity.~~ 41891

~~(9)(8)~~ The director's approval, modification, or disapproval 41892
under division (D)~~(8)(7)~~ of this section shall be final and 41893
binding on the responsible entity and shall not be subject to 41894
further ~~departmental~~ review. 41895

(E) The responsible entity is not entitled to an 41896
administrative review under division (D) of this section for any 41897
of the following: 41898

(1) An action taken under division (C)(5) or (6) of this 41899

section;	41900
(2) An action taken under section 5101.242 of the Revised Code;	41901 41902
(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;	41903 41904 41905 41906 41907 41908
(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;	41909 41910 41911
(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.	41912 41913 41914
(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.	41915 41916 41917 41918 41919
(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.	41920 41921 41922
<u>(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:</u>	41923 41924 41925 41926
<u>(1) Fraud or abuse;</u>	41927
<u>(2) Failure to carry out the requirements of the federal "Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as</u>	41928 41929

amended, including failure to meet performance standards 41930
established by the federal government for two consecutive years. 41931

If the governor finds that access to basic "Workforce 41932
Investment Act" services is not being provided in a local area, 41933
the governor may declare an emergency and, in consultation with 41934
the chief elected officials of the local area affected, arrange 41935
for provision of these services through an alternative entity 41936
during the time period in which resolution of the problem 41937
preventing service delivery in the local area is pending. An 41938
action taken by the governor pursuant to this section is not 41939
subject to appeal under this section. 41940

Sec. 5101.26. As used in this section and in sections 5101.27 41941
to 5101.30 of the Revised Code: 41942

(A) "County agency" means a county department of job and 41943
family services or a public children services agency. 41944

(B) "Fugitive felon" means an individual who is fleeing to 41945
avoid prosecution, or custody or confinement after conviction, 41946
under the laws of the place from which the individual is fleeing, 41947
for a crime or an attempt to commit a crime that is a felony under 41948
the laws of the place from which the individual is fleeing or, in 41949
the case of New Jersey, a high misdemeanor, regardless of whether 41950
the individual has departed from the individual's usual place of 41951
residence. 41952

(C) "Information" means records as defined in section 149.011 41953
of the Revised Code, any other documents in any format, and data 41954
derived from records and documents that are generated, acquired, 41955
or maintained by the department of job and family services, a 41956
county agency, or an entity performing duties on behalf of the 41957
department or a county agency. 41958

(D) "Law enforcement agency" means the state highway patrol, 41959

an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance provided under a public assistance program" means medical assistance provided under the programs established under sections 5101.49, 5101.50 to 5101.503, and 5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any other provision of the Revised Code.

(F) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

(G) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.31. Any record, data, pricing information, or other information regarding a drug rebate agreement or a supplemental drug rebate agreement for the medicaid program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under section 5115.10 of the Revised Code~~ that the department of job and family services receives from a pharmaceutical manufacturer or creates pursuant to negotiation of the agreement is not a public record under section 149.43 of the Revised Code and shall be treated by the department as confidential information.

Sec. 5101.35. (A) As used in this section:	41990
(1) "Agency" means the following entities that administer a family services program:	41991
(a) The department of job and family services;	41992
(b) A county department of job and family services;	41993
(c) A public children services agency;	41994
(d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.	41995
(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.	41996
(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section 173.35, 5101.141, 5101.46, <u>5101.461</u> , 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of mental retardation and developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of mental retardation and developmental disabilities.	41997
(B) Except as provided by division (G) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The	41998
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state hearing shall be tape-recorded, but neither the recording 42020
nor a transcript of the recording shall be part of the official 42021
record of the proceeding. A state hearing decision is binding upon 42022
the agency and department, unless it is reversed or modified on 42023
appeal to the director of job and family services or a court of 42024
common pleas. 42025

(C) Except as provided by division (G) of this section, an 42026
appellant who disagrees with a state hearing decision may make an 42027
administrative appeal to the director of job and family services 42028
in accordance with rules adopted under this section. This 42029
administrative appeal does not require a hearing, but the director 42030
or the director's designee shall review the state hearing decision 42031
and previous administrative action and may affirm, modify, remand, 42032
or reverse the state hearing decision. Any person designated to 42033
make an administrative appeal decision on behalf of the director 42034
shall have been admitted to the practice of law in this state. An 42035
administrative appeal decision is the final decision of the 42036
department and is binding upon the department and agency, unless 42037
it is reversed or modified on appeal to the court of common pleas. 42038

(D) An agency shall comply with a decision issued pursuant to 42039
division (B) or (C) of this section within the time limits 42040
established by rules adopted under this section. If a county 42041
department of job and family services or a public children 42042
services agency fails to comply within these time limits, the 42043
department may take action pursuant to section 5101.24 of the 42044
Revised Code. If another agency fails to comply within the time 42045
limits, the department may force compliance by withholding funds 42046
due the agency or imposing another sanction established by rules 42047
adopted under this section. 42048

(E) An appellant who disagrees with an administrative appeal 42049
decision of the director of job and family services or the 42050
director's designee issued under division (C) of this section may 42051

appeal from the decision to the court of common pleas pursuant to 42052
section 119.12 of the Revised Code. The appeal shall be governed 42053
by section 119.12 of the Revised Code except that: 42054

(1) The person may appeal to the court of common pleas of the 42055
county in which the person resides, or to the court of common 42056
pleas of Franklin county if the person does not reside in this 42057
state. 42058

(2) The person may apply to the court for designation as an 42059
indigent and, if the court grants this application, the appellant 42060
shall not be required to furnish the costs of the appeal. 42061

(3) The appellant shall mail the notice of appeal to the 42062
department of job and family services and file notice of appeal 42063
with the court within thirty days after the department mails the 42064
administrative appeal decision to the appellant. For good cause 42065
shown, the court may extend the time for mailing and filing notice 42066
of appeal, but such time shall not exceed six months from the date 42067
the department mails the administrative appeal decision. Filing 42068
notice of appeal with the court shall be the only act necessary to 42069
vest jurisdiction in the court. 42070

(4) The department shall be required to file a transcript of 42071
the testimony of the state hearing with the court only if the 42072
court orders the department to file the transcript. The court 42073
shall make such an order only if it finds that the department and 42074
the appellant are unable to stipulate to the facts of the case and 42075
that the transcript is essential to a determination of the appeal. 42076
The department shall file the transcript not later than thirty 42077
days after the day such an order is issued. 42078

(F) The department of job and family services shall adopt 42079
rules in accordance with Chapter 119. of the Revised Code to 42080
implement this section, including rules governing the following: 42081

(1) State hearings under division (B) of this section. The 42082

rules shall include provisions regarding notice of eligibility 42083
termination and the opportunity of an appellant appealing a 42084
decision or order of a county department of job and family 42085
services to request a county conference with the county department 42086
before the state hearing is held. 42087

(2) Administrative appeals under division (C) of this 42088
section; 42089

(3) Time limits for complying with a decision issued under 42090
division (B) or (C) of this section; 42091

(4) Sanctions that may be applied against an agency under 42092
division (D) of this section. 42093

(G) The department of job and family services may adopt rules 42094
in accordance with Chapter 119. of the Revised Code establishing 42095
an appeals process for an appellant who appeals a decision or 42096
order regarding a Title IV-A program identified under division 42097
(A)(3)(c) ~~or~~, (d), or (e) of section 5101.80 of the Revised Code 42098
that is different from the appeals process established by this 42099
section. The different appeals process may include having a state 42100
agency that administers the Title IV-A program pursuant to an 42101
interagency agreement entered into under section 5101.801 of the 42102
Revised Code administer the appeals process. 42103

(H) The requirements of Chapter 119. of the Revised Code 42104
apply to a state hearing or administrative appeal under this 42105
section only to the extent, if any, specifically provided by rules 42106
adopted under this section. 42107

Sec. 5101.36. Any application for public assistance gives a 42108
right of subrogation to the department of job and family services 42109
for any workers' compensation benefits payable to a person who is 42110
subject to a support order, as defined in section 3119.01 of the 42111
Revised Code, on behalf of the applicant, to the extent of any 42112

public assistance payments made on the applicant's behalf. If the 42113
director of job and family services, in consultation with a child 42114
support enforcement agency and the administrator of the bureau of 42115
workers' compensation, determines that a person responsible for 42116
support payments to a recipient of public assistance is receiving 42117
workers' compensation, the director shall notify the administrator 42118
of the amount of the benefit to be paid to the department of job 42119
and family services. 42120

For purposes of this section, "public assistance" means 42121
medical assistance provided through the medical assistance program 42122
established under section 5111.01 of the Revised Code; Ohio works 42123
first provided under Chapter 5107. of the Revised Code; 42124
prevention, retention, and contingency benefits and services 42125
provided under Chapter 5108. of the Revised Code; disability 42126
financial assistance provided under Chapter 5115. of the Revised 42127
Code; or disability medical assistance provided under former 42128
Chapter 5115. of the Revised Code. 42129

Sec. 5101.46. (A) As used in this section: 42130

(1) "Title XX" means Title XX of the "Social Security Act," 42131
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 42132

(2) "Respective local agency" means, with respect to the 42133
department of job and family services, a county department of job 42134
and family services; with respect to the department of mental 42135
health, a board of alcohol, drug addiction, and mental health 42136
services; and with respect to the department of mental retardation 42137
and developmental disabilities, a county board of mental 42138
retardation and developmental disabilities. 42139

(3) "Federal poverty guidelines" means the poverty guidelines 42140
as revised annually by the United States department of health and 42141
human services in accordance with section 673(2) of the "Omnibus 42142

Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A.	42143
9902, as amended, for a family size equal to the size of the	42144
family of the person whose income is being determined.	42145
(B) The departments of job and family services, mental	42146
health, and mental retardation and developmental disabilities,	42147
with their respective local agencies, shall administer the	42148
provision of social services funded through grants made under	42149
Title XX. The social services furnished with Title XX funds shall	42150
be directed at the following goals:	42151
(1) Achieving or maintaining economic self-support to	42152
prevent, reduce, or eliminate dependency;	42153
(2) Achieving or maintaining self-sufficiency, including	42154
reduction or prevention of dependency;	42155
(3) Preventing or remedying neglect, abuse, or exploitation	42156
of children and adults unable to protect their own interests, or	42157
preserving, rehabilitating, or reuniting families;	42158
(4) Preventing or reducing inappropriate institutional care	42159
by providing for community-based care, home-based care, or other	42160
forms of less intensive care;	42161
(5) Securing referral or admission for institutional care	42162
when other forms of care are not appropriate, or providing	42163
services to individuals in institutions.	42164
(C)(1) All federal funds received under Title XX shall be	42165
appropriated as follows:	42166
(a) Seventy-two and one-half per cent to the department of	42167
job and family services;	42168
(b) Twelve and ninety-three one-hundredths per cent to the	42169
department of mental health;	42170
(c) Fourteen and fifty-seven one-hundredths per cent to the	42171
department of mental retardation and developmental disabilities.	42172

(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation for local administrative costs.

(4) The department of job and family services shall expend no more than two per cent of its Title XX appropriation for the training of the following:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for

public inspection. 42203

The departments of mental health and mental retardation and 42204
developmental disabilities shall prepare and submit to the 42205
department of job and family services the portions of each 42206
biennial plan and annual report that apply to services for mental 42207
health and mental retardation and developmental disabilities. Each 42208
respective local agency of the three state departments shall 42209
submit information as necessary for the preparation of biennial 42210
plans and annual reports. 42211

(E) Each county department shall adopt a county profile for 42212
the administration and provision of Title XX social services in 42213
the county. In developing its county profile, the county 42214
department shall take into consideration the comments and 42215
recommendations received from the public by the county family 42216
services planning committee pursuant to section 329.06 of the 42217
Revised Code. As part of its preparation of the county profile, 42218
the county department may prepare a local needs report analyzing 42219
the need for Title XX social services. 42220

The county department shall submit the county profile to the 42221
board of county commissioners for its review. Once the county 42222
profile has been approved by the board, the county department 42223
shall file a copy of the county profile with the department of job 42224
and family services. The department shall approve the county 42225
profile if the department determines the profile provides for the 42226
Title XX social services to meet the goals specified in division 42227
(B) of this section. 42228

~~(F) Not less often than every two years, the departments of 42229
job and family services, mental health, and mental retardation and 42230
developmental disabilities each shall commission an entity 42231
independent of itself to conduct an audit of its Title XX 42232
expenditures in accordance with generally accepted auditing 42233
principles. Within thirty days following the completion of its 42234~~

~~audit, each department shall submit a copy of the audit to the 42235
general assembly and to the United States secretary of health and 42236
human services. 42237~~

~~(G) Any of the three state departments and their respective 42238
local agencies may require that an entity under contract to 42239
provide social services with Title XX funds submit to an audit on 42240
the basis of alleged misuse or improper accounting of funds. The 42241
If an audit is required, the social services provider shall 42242
reimburse the state department or local agency for the cost it 42243
incurred in conducting the audit or having the audit conducted. 42244~~

~~If an audit demonstrates that a social services provider is 42245
responsible for one or more adverse findings, the provider shall 42246
reimburse the appropriate state department or its respective local 42247
agency the amount of the adverse findings. The amount shall not be 42248
reimbursed with Title XX funds received under this section. The 42249
three state departments and their respective local agencies may 42250
terminate or refuse to enter into a Title XX contract with a 42251
provider of social services provider if there are adverse findings 42252
in an audit that are the responsibility of the provider. The 42253
amount of any adverse findings shall not be reimbursed with Title 42254
XX funds. The cost of conducting an audit shall be reimbursed 42255
under a subsequent or amended Title XX contract with the provider. 42256~~

~~(H) If federal funds received by the department of job and 42257
family services for use under Chapters 5107. and 5108. of the 42258
Revised Code are transferred by the controlling board for use in 42259
providing social services under this section, the distribution and 42260
use of the funds are not subject to the provisions of division (C) 42261
of this section. The department may do one or both of the 42262
following with the funds: 42263~~

~~(1) Distribute the funds to the county departments of job and 42264
family services; 42265~~

~~(2) Use the funds for services that benefit individuals 42266
eligible for services consistent with the principles of Title IV-A 42267
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 42268
301, as amended. 42269~~

~~(I) Except for the authority to adopt rules under division 42270
(J) of this section as necessary to carry out this division, this 42271
section does not apply to any distribution by the department of 42272
job and family services of funds for reimbursement of allowable 42273
Title XX expenditures when the funds for the reimbursement are 42274
received from a federal funding source other than Title XX. 42275~~

~~(J)(G) The department of job and family services may adopt 42276
rules necessary to implement and carry out the purposes of this 42277
section. Rules adopted under this division shall be adopted in 42278
accordance with Chapter 119. of the Revised Code, unless they are 42279
internal management rules governing fiscal and administrative 42280
matters. Internal governing financial and operational matters of
the department or matters between the department and county
departments of job and family services shall be adopted as
internal management rules may be adopted in accordance with
section 111.15 of the Revised Code. Rules governing eligibility
for services, program participation, and other matters pertaining
to applicants and participants shall be adopted in accordance with
Chapter 119. of the Revised Code. 42281
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Sec. 5101.461. (A) As used in this section: 42289

(1) "Title IV-A" means Title IV-A of the "Social Security 42290
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 42291

(2) "Title XX" has the same meaning as in section 5101.46 of 42292
the Revised Code. 42293

(B) To the extent authorized by federal law, the department 42294
of job and family services may use funds received through the 42295

Title IV-A temporary assistance for needy families block grant for 42296
purposes of providing Title XX social services. The amount used 42297
under this section shall not exceed the maximum amount permitted 42298
by federal law. The funds and provision of Title XX social 42299
services with the funds are not subject to section 5101.46 of the 42300
Revised Code. 42301

(C) The department and any county department of job and 42302
family services may require an entity under contract to provide 42303
Title XX social services with funds used under this section to 42304
submit to an audit on the basis of alleged misuse or improper 42305
accounting of funds. If an audit is required, the social services 42306
provider shall reimburse the state department or county department 42307
for the cost it incurred in conducting the audit or having the 42308
audit conducted. 42309

If an audit demonstrates that a social services provider is 42310
responsible for one or more adverse findings, the provider shall 42311
reimburse the state department or county department the amount of 42312
the adverse findings. The amount shall not be reimbursed with 42313
funds received under this section. The state department and county 42314
departments may terminate or refuse to enter into a contract with 42315
a social services provider to provide services with funds 42316
available pursuant to this section if there are adverse findings 42317
in an audit that are the responsibility of the provider. 42318

(D) The state department of job and family services may adopt 42319
rules to implement and carry out the purposes of this section. 42320
Rules governing financial and operational matters of the 42321
department or matters between the department and county 42322
departments of job and family services shall be adopted as 42323
internal management rules in accordance with section 111.15 of the 42324
Revised Code. Rules governing eligibility for services, program 42325
participation, and other matters pertaining to applicants and 42326
participants shall be adopted in accordance with Chapter 119. of 42327

the Revised Code.

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Sec. 5101.47. (A) The Except as provided in division (B) of this section, the director of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

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(1) The medicaid program established by Chapter 5111. of the Revised Code;

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(2) The children's health insurance program parts I and II provided for under sections 5101.50 and 5101.51 of the Revised Code;

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(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

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(4) The food stamp program administered by the department of job and family services pursuant to section 5104.54 of the Revised Code;

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(5) Other programs the director determines are supportive of children, adults, or families with at least one employed member;

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(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

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(B) If The director may not accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section if federal law requires that individuals apply in person.

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(C) Subject to division (B) of this section, if the director

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elects to accept applications, determine eligibility, redetermine 42357
eligibility, and perform related administrative activities for a 42358
program specified in or pursuant to division (A) of this section, 42359
both of the following apply: 42360

(1) An individual seeking services under the program may 42361
apply for the program to the director or to the entity that state 42362
law governing the program authorizes to accept applications for 42363
the program. 42364

(2) The director is subject to federal statutes and 42365
regulations and state ~~law~~ statutes and rules that require, permit, 42366
or prohibit an action regarding accepting applications, 42367
determining or redetermining eligibility, and performing related 42368
administrative activities for the program. 42369

~~(C)~~(D) The director may adopt rules as necessary to implement 42370
this section. 42371

Sec. 5101.80. (A) As used in this section and in section 42372
5101.801 of the Revised Code: 42373

(1) "County family services agency" has the same meaning as 42374
in section 307.981 of the Revised Code. 42375

(2) "State agency" has the same meaning as in section 9.82 of 42376
the Revised Code. 42377

(3) "Title IV-A program" means all of the following that are 42378
funded in part with funds provided under the temporary assistance 42379
for needy families block grant established by Title IV-A of the 42380
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 42381
amended: 42382

(a) The Ohio works first program established under Chapter 42383
5107. of the Revised Code; 42384

(b) The prevention, retention, and contingency program 42385
established under Chapter 5108. of the Revised Code; 42386

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) The kinship caregiver subsidy program created under section 5101.802 of the Revised Code;

(e) A component of a Title IV-A program identified under divisions (A)(3)(a) to ~~(e)~~(d) of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on county family services agencies and state agencies that administer a Title IV-A program. No county family services agency or state agency administering a Title IV-A program may establish, by rule or otherwise, a policy governing the Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(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;

(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), and (e) of this section;

- (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; 42418
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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; 42422
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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; 42426
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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; 42430
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- (7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and ~~section~~ sections 5101.801 and 5101.802 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and ~~section~~ sections and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended; 42434
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- (8) Conduct investigations and audits as are necessary regarding Title IV-A programs; 42441
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- (9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents; 42443
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- (10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the 42446
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prevention, retention, and contingency program. The contract must 42448
require the private entity to do all of the following: 42449

(a) Examine issues of process, practice, impact, and 42450
outcomes; 42451

(b) Study former participants of Ohio works first who have 42452
not participated in Ohio works first for at least one year to 42453
determine whether they are employed, the type of employment in 42454
which they are engaged, the amount of compensation they are 42455
receiving, whether their employer provides health insurance, 42456
whether and how often they have received benefits or services 42457
under the prevention, retention, and contingency program, and 42458
whether they are successfully self sufficient; 42459

(c) Provide the department with reports at times the 42460
department specifies. 42461

(11) Not later than January 1, 2001, and the first day of 42462
each January and July thereafter, prepare a report containing 42463
information on the following: 42464

(a) Individuals exhausting the time limits for participation 42465
in Ohio works first set forth in section 5107.18 of the Revised 42466
Code. 42467

(b) Individuals who have been exempted from the time limits 42468
set forth in section 5107.18 of the Revised Code and the reasons 42469
for the exemption. 42470

(12) Not later than January 1, 2001, and on a quarterly basis 42471
thereafter until December 1, 2003, prepare, to the extent the 42472
necessary data is available to the department, a report based on 42473
information determined under section 5107.80 of the Revised Code 42474
that states how many former Ohio works first participants entered 42475
the workforce during the most recent previous quarter for which 42476
the information is known and includes information regarding the 42477

earnings of those former participants. The report shall include a 42478
county-by-county breakdown and shall not contain the names or 42479
social security numbers of former participants. 42480

(13) To the extent authorized by section 5101.801 of the 42481
Revised Code, enter into interagency agreements with state 42482
agencies for the administration of Title IV-A programs identified 42483
under division (A)(3)(c) and ~~(d)~~(e) of this section. 42484

(D) The department shall provide copies of the reports it 42485
receives under division (C)(10) of this section and prepares under 42486
divisions (C)(11) and (12) of this section to the governor, the 42487
president and minority leader of the senate, and the speaker and 42488
minority leader of the house of representatives. The department 42489
shall provide copies of the reports to any private or government 42490
entity on request. 42491

(E) An authorized representative of the department or a 42492
county family services agency or state agency administering a 42493
Title IV-A program shall have access to all records and 42494
information bearing thereon for the purposes of investigations 42495
conducted pursuant to this section. 42496

Sec. 5101.801. (A) Except as otherwise provided by the law 42497
enacted by the general assembly or executive order issued by the 42498
governor establishing the Title IV-A program, a Title IV-A program 42499
identified under division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 42500
of the Revised Code shall provide benefits and services that are 42501
not "assistance" as defined in 45 C.F.R. 260.31(a) and are 42502
benefits and services that 45 C.F.R. 260.31(b) excludes from the 42503
definition of assistance. 42504

(B) Except as otherwise provided by the law enacted by the 42505
general assembly or executive order issued by the governor 42506
establishing the Title IV-A program, the department of job and 42507

family services shall do either of the following regarding a Title 42508
IV-A program identified under division (A)(3)(c) or ~~(d)~~(e) of 42509
section 5101.80 of the Revised Code: 42510

(1) Administer the program or supervise a county family 42511
services agency's administration of the program; 42512

(2) Enter into an interagency agreement with a state agency 42513
for the state agency to administer the program under the 42514
department's supervision. 42515

(C) If the department administers or supervises the 42516
administration of a Title IV-A program identified under division 42517
(A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised Code 42518
pursuant to division (B)(1) of this section, the department may 42519
adopt rules governing the program. Rules governing financial and 42520
operational matters of the department or between the department 42521
and the county family services agency shall be adopted as internal 42522
management rules adopted in accordance with section 111.15 of the 42523
Revised Code. All other rules shall be adopted in accordance with 42524
Chapter 119. of the Revised Code. 42525

(D) If the department enters into an interagency agreement 42526
regarding a Title IV-A program identified under division (A)(3)(c) 42527
or ~~(d)~~(e) of section 5101.80 of the Revised Code pursuant to 42528
division (B)(2) of this section, the agreement shall include at 42529
least all of the following: 42530

(1) A requirement that the state agency comply with the 42531
requirements for the program, including all of the following 42532
requirements established by federal statutes and regulations, 42533
state statutes and rules, the United States office of management 42534
and budget, and the Title IV-A state plan prepared under section 42535
5101.80 of the Revised Code: 42536

(a) Eligibility; 42537

(b) Reports;	42538
(c) Benefits and services;	42539
(d) Use of funds;	42540
(e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;	42541 42542
(f) Audits.	42543
(2) A complete description of all of the following:	42544
(a) The benefits and services that the program is to provide;	42545
(b) The methods of program administration;	42546
(c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program's benefits and services;	42547 42548 42549
(d) Other program and administrative requirements that the department requires be included.	42550 42551
(3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency establishes for the program before the policy is established;	42552 42553 42554
(4) Provisions regarding how the department is to reimburse the state agency for allowable expenditures under the program that the department approves, including all of the following:	42555 42556 42557
(a) Limitations on administrative costs;	42558
(b) The department, at its discretion, withholding no more than five per cent of the funds that the department would otherwise provide to the state agency for the program or charging the state agency for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the program.	42559 42560 42561 42562 42563 42564
(5) If the state agency arranges by contract, grant, or other	42565

agreement for another entity to perform a function the state 42566
agency would otherwise perform regarding the program, the state 42567
agency's responsibilities for both of the following: 42568

(a) Ensuring that the entity complies with the interagency 42569
agreement between the state agency and department and federal 42570
statutes and regulations and state statutes and rules governing 42571
the use of funds for the program; 42572

(b) Auditing the entity in accordance with requirements 42573
established by the United States office of management and budget. 42574

(6) The state agency's responsibilities regarding the prompt 42575
payment, including any interest assessed, of any adverse audit 42576
finding, final disallowance of federal funds, or other sanction or 42577
penalty imposed by the federal government, auditor of state, 42578
department, a court, or other entity regarding funds for the 42579
program; 42580

(7) Provisions for the department to terminate the 42581
interagency agreement or withhold reimbursement from the state 42582
agency if either of the following occur: 42583

(a) The federal government disapproves the program or reduces 42584
federal funds for the program; 42585

(b) The state agency fails to comply with the terms of the 42586
interagency agreement. 42587

(E) To the extent consistent with the law enacted by the 42588
general assembly or executive order issued by the governor 42589
establishing the Title IV-A program and subject to the approval of 42590
the director of budget and management, the director of job and 42591
family services may terminate a Title IV-A program identified 42592
under division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the 42593
Revised Code or reduce funding for the program if the director of 42594
job and family services determines that federal or state funds are 42595

insufficient to fund the program. If the director of budget and 42596
management approves the termination or reduction in funding for 42597
such a program, the director of job and family services shall 42598
issue instructions for the termination or funding reduction. If a 42599
county family services agency or state agency is administering the 42600
program, the county family services agency or state agency is 42601
bound by the termination or funding reduction and shall comply 42602
with the director's instructions. 42603

(F) The director of job and family services may adopt 42604
internal management rules in accordance with section 111.15 of the 42605
Revised Code as necessary to implement this section. The rules are 42606
binding on each county family services agency and state agency 42607
administering, pursuant to this section, a Title IV-A program 42608
identified in division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of 42609
the Revised Code. 42610

Sec. 5101.802. (A) As used in this section: 42611

(1) "Kinship caregiver" has the same meaning as in section 42612
5101.85 of the Revised Code. 42613

(2) "Minor child" has the same meaning as in section 5107.02 42614
of the Revised Code. 42615

(B) There is hereby created the kinship caregiver subsidy 42616
program under which a monthly subsidy of two hundred fifty dollars 42617
shall be provided, to the extent funds are available for the 42618
program, to a kinship caregiver on behalf of each eligible minor 42619
child who the kinship caregiver cares for in place of the child's 42620
parents. A kinship caregiver may receive the monthly subsidy on 42621
behalf of a minor child if all of the following requirements are 42622
met: 42623

(1) The kinship caregiver applies to a public children 42624
services agency in accordance with the application process 42625

- established in rules adopted under division (D) of this section; 42626
- (2) The minor child for whom the kinship caregiver is to receive the subsidy payment is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code and related to the kinship caregiver in a manner that makes the kinship caregiver a kinship caregiver; 42627
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- (3) A juvenile court has adjudicated that the minor child is an abused, neglected, or dependent child and determined that it is not in the child's best interest to be returned to the child's parents; 42632
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- (4) The kinship caregiver is either the minor child's legal custodian or legal guardian; 42636
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- (5) The minor child has resided with the kinship caregiver for at least six months pursuant to a placement approval process established in rules adopted under division (D) of this section and continues to reside with the kinship caregiver; 42638
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- (6) The gross income of the kinship caregiver's family does not exceed one hundred twenty per cent of the median income of a family of the same size, including the minor child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C. 1397, as amended; 42642
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- (7) Neither the kinship caregiver nor the minor child is participating in the Ohio works first program established under Chapter 5107. of the Revised Code or has had participation in the Ohio works first program terminated because of a sanction imposed under section 5107.16 of the Revised Code; 42648
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- (8) Section 2151.86 of the Revised Code does not require a public children services agency to deny the application; 42653
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- (9) The kinship caregiver and minor child meet all other 42655

eligibility requirements established in rules adopted under 42656
division (D) of this section. 42657

(C) Public children services agencies shall make eligibility 42658
determinations and redeterminations for the kinship caregiver 42659
subsidy program in accordance with rules adopted under division 42660
(D) of this section. Eligibility redeterminations shall be done 42661
annually. The director of job and family services shall supervise 42662
public children services agencies' duties under this section. 42663

(D) The director of job and family services shall adopt rules 42664
in accordance with Chapter 119. of the Revised Code as necessary 42665
to implement the kinship caregiver subsidy program. The rules 42666
shall establish all of the following: 42667

(1) The application process for the program; 42668

(2) The placement approval process through which a minor 42669
child is placed with a kinship caregiver for the kinship caregiver 42670
to be eligible for the program; 42671

(3) Additional eligibility requirements for the program; 42672

(4) The eligibility determination and redetermination process 42673
for the program; 42674

(5) The amount of the subsidy provided under the program; 42675

(6) The method by which the subsidy is provided to a kinship 42676
caregiver on behalf of an eligible minor child; 42677

(7) Anything else the director considers necessary to 42678
implement the program. 42679

Sec. 5101.803. (A) There is hereby created the Title IV-A 42680
demonstration program to provide funding for innovative and 42681
promising prevention and intervention projects that meet one or 42682
more of the four purposes of the temporary assistance for needy 42683
families block grant as specified in 42 U.S.C. 601 and are for 42684

individuals with specific and multiple barriers to achieving or 42685
maintaining self-sufficiency and personal responsibility. The 42686
department of job and family services may provide funding for such 42687
projects to government entities and, to the extent permitted by 42688
federal law, private, not-for-profit entities with which the 42689
department enters into agreements under division (B)(2) of section 42690
5101.801 of the Revised Code. 42691

In accordance with criteria the department develops, the 42692
department may solicit proposals for entities seeking to enter 42693
into an agreement with the department under division (B)(2) of 42694
section 5101.801 of the Revised Code. The department may enter 42695
into such agreements with entities that do both of the following: 42696

(1) Meet the proposals' criteria; 42697

(2) If the entity's proposed project does not potentially 42698
affect persons in each county of the state, provides the 42699
department evidence that the entity has notified, in writing, the 42700
county department of job and family services of each county where 42701
persons may be affected by the implementation of the project. 42702

(B) In developing the criteria, soliciting the proposals, and 42703
entering in the agreements, the department shall comply with all 42704
applicable federal and state laws, the Title IV-A state plan 42705
submitted to the United States secretary of health and human 42706
services under section 5101.80 of the Revised Code, amendments to 42707
the Title IV-A state plan submitted to the United States secretary 42708
under that section, and federal waivers the United States 42709
secretary grants. 42710

Sec. 5101.821. Except as otherwise approved by the director 42711
of budget and management, the department of job and family 42712
services shall deposit federal funds received under Title IV-A of 42713
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 42714

into the temporary assistance for needy families (TANF) federal 42715
fund, which is hereby created in the state treasury. The 42716
department shall use money in the fund for the Ohio works first 42717
program established under Chapter 5107. of the Revised Code; the 42718
prevention, retention, and contingency program established under 42719
Chapter 5108. of the Revised Code; social services provided 42720
pursuant to section 5101.461 of the Revised Code; and any other 42721
purposes consistent with Title IV-A, federal regulations, federal 42722
waivers granted by the United States secretary of health and human 42723
services, state law, the Title IV-A state plan and amendments 42724
submitted to the United States secretary of health and human 42725
services under section 5101.80 of the Revised Code, and rules 42726
adopted by the department under section 5107.05 of the Revised 42727
Code. 42728

Sec. 5104.01. As used in this chapter: 42729

(A) "Administrator" means the person responsible for the 42730
daily operation of a center or type A home. The administrator and 42731
the owner may be the same person. 42732

(B) "Approved child day camp" means a child day camp approved 42733
pursuant to section 5104.22 of the Revised Code. 42734

(C) "Authorized provider" means a person authorized by a 42735
county director of job and family services to operate a certified 42736
type B family day-care home. 42737

(D) "Border state child care provider" means a child care 42738
provider that is located in a state bordering Ohio and that is 42739
licensed, certified, or otherwise approved by that state to 42740
provide child care. 42741

(E) "Caretaker parent" means the father or mother of a child 42742
whose presence in the home is needed as the caretaker of the 42743
child, a person who has legal custody of a child and whose 42744

presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day.

For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:	42807 42808
(a) An organized religious body provides the child care;	42809
(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;	42810 42811 42812
(c) The child care is not provided for more than thirty days a year;	42813 42814
(d) The child care is provided only for preschool and school children.	42815 42816
(M) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.	42817 42818 42819
(N) "Child care resource and referral services" means all of the following services:	42820 42821
(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	42822 42823 42824
(2) Provision of individualized consumer education to families seeking child care;	42825 42826
(3) Provision of timely referrals of available child care providers to families seeking child care;	42827 42828
(4) Recruitment of child care providers;	42829
(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;	42830 42831 42832 42833
(6) Collection and analysis of data on the supply of and demand for child care in the community;	42834 42835

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	42836 42837 42838
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	42839 42840 42841
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	42842 42843
(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;	42844 42845 42846 42847
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.	42848 42849 42850 42851
(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.	42852 42853 42854 42855 42856
(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 care or publicly funded child care for children on a temporary, irregular basis.	42857 42858 42859 42860
(Q) "Employee" means a person who either:	42861
(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;	42862 42863
(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.	42864 42865

(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.

(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.

(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 sections 3301.31 to 3301.37 of the Revised Code.~~

(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.

(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.

(W) "Infant" means a child who is less than eighteen months of age.

(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 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 42896
for child day-care centers and type A family day-care homes in 42897
which each licensing requirement is assigned a weight indicative 42898
of the relative importance of the requirement to the health, 42899
growth, and safety of the children that is used to develop an 42900
indicator checklist. 42901

(Z) "License capacity" means the maximum number in each age 42902
category of children who may be cared for in a child day-care 42903
center or type A family day-care home at one time as determined by 42904
the director of job and family services considering building 42905
occupancy limits established by the department of commerce, number 42906
of available child-care staff members, amount of available indoor 42907
floor space and outdoor play space, and amount of available play 42908
equipment, materials, and supplies. 42909

(AA) "Licensed preschool program" or "licensed school child 42910
program" means a preschool program or school child program, as 42911
defined in section 3301.52 of the Revised Code, that is licensed 42912
by the department of education pursuant to sections 3301.52 to 42913
3301.59 of the Revised Code. 42914

(BB) "Licensee" means the owner of a child day-care center or 42915
type A family day-care home that is licensed pursuant to this 42916
chapter and who is responsible for ensuring its compliance with 42917
this chapter and rules adopted pursuant to this chapter. 42918

(CC) "Operate a child day camp" means to operate, establish, 42919
manage, conduct, or maintain a child day camp. 42920

(DD) "Owner" includes a person, as defined in section 1.59 of 42921
the Revised Code, or government entity. 42922

(EE) "Parent cooperative child day-care center," "parent 42923
cooperative center," "parent cooperative type A family day-care 42924
home," and "parent cooperative type A home" mean a corporation or 42925
association organized for providing educational services to the 42926

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.

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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 care or
publicly funded child care for no more than four hours a day for
any child.

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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.

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(HH) "Preschool child" means a child who is three years old
or older but is not a school child.

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(II) "Protective child care" means publicly funded child care
for the direct care and protection of a child to whom either of
the following applies:

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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
for protective care and the child resides with a parent,
stepparent, guardian, or another person who stands in loco
parentis as defined in rules adopted under section 5104.38 of the
Revised Code;

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(2) The child and the child's caretaker either temporarily
reside in a facility providing emergency shelter for homeless

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families or are determined by the county department of job and 42958
family services to be homeless, and are otherwise ineligible for 42959
publicly funded child care. 42960

(JJ) "Publicly funded child care" means administering to the 42961
needs of infants, toddlers, preschool children, and school 42962
children under age thirteen during any part of the 42963
twenty-four-hour day by persons other than their caretaker parents 42964
for remuneration wholly or in part with federal or state funds, 42965
including funds available under the child care block grant act, 42966
Title IV-A, and Title XX, distributed by the department of job and 42967
family services. 42968

(KK) "Religious activities" means any of the following: 42969
worship or other religious services; religious instruction; Sunday 42970
school classes or other religious classes conducted during or 42971
prior to worship or other religious services; youth or adult 42972
fellowship activities; choir or other musical group practices or 42973
programs; meals; festivals; or meetings conducted by an organized 42974
religious group. 42975

(LL) "School child" means a child who is enrolled in or is 42976
eligible to be enrolled in a grade of kindergarten or above but is 42977
less than fifteen years old. 42978

(MM) "School child day-care center," "school child center," 42979
"school child type A family day-care home," and "school child type 42980
A family home" mean a center or type A home that provides child 42981
care for school children only and that does either or both of the 42982
following: 42983

(1) Operates only during that part of the day that 42984
immediately precedes or follows the public school day of the 42985
school district in which the center or type A home is located; 42986

(2) Operates only when the public schools in the school 42987
district in which the center or type A home is located are not 42988

open for instruction with pupils in attendance. 42989

(NN) "State median income" means the state median income 42990
calculated by the department of development pursuant to division 42991
(A)(1)(g) of section 5709.61 of the Revised Code. 42992

(OO) "Title IV-A" means Title IV-A of the "Social Security 42993
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 42994

(PP) "Title XX" means Title XX of the "Social Security Act," 42995
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 42996

(QQ) "Toddler" means a child who is at least eighteen months 42997
of age but less than three years of age. 42998

(RR) "Type A family day-care home" and "type A home" mean a 42999
permanent residence of the administrator in which child care or 43000
publicly funded child care is provided for seven to twelve 43001
children at one time or a permanent residence of the administrator 43002
in which child care is provided for four to twelve children at one 43003
time if four or more children at one time are under two years of 43004
age. In counting children for the purposes of this division, any 43005
children under six years of age who are related to a licensee, 43006
administrator, or employee and who are on the premises of the type 43007
A home shall be counted. "Type A family day-care home" does not 43008
include a residence in which the needs of children are 43009
administered to, if all of the children whose needs are being 43010
administered to are siblings of the same immediate family and the 43011
residence is the home of the siblings. "Type A family day-care 43012
home" and "type A home" do not include any child day camp. 43013

(SS) "Type B family day-care home" and "type B home" mean a 43014
permanent residence of the provider in which child care is 43015
provided for one to six children at one time and in which no more 43016
than three children are under two years of age at one time. In 43017
counting children for the purposes of this division, any children 43018
under six years of age who are related to the provider and who are 43019

on the premises of the type B home shall be counted. "Type B
family day-care home" does not include a residence in which the
needs of children are administered to, if all of the children
whose needs are being administered to are siblings of the same
immediate family and the residence is the home of the siblings.
"Type B family day-care home" and "type B home" do not include any
child day camp.

Sec. 5104.32. (A) Except as provided in division (C) of this
section, all purchases of publicly funded child 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 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 care for a specified period of time or upon a
continuous basis for an unspecified period of time. All contracts
for publicly funded child 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
contracts for the purchase of publicly funded child care,
regardless of the source of public funds used to purchase the
child care. To the extent permitted by federal law and
notwithstanding any other provision of the Revised Code that
regulates state or county contracts or contracts involving the
expenditure of state, county, or federal funds, all contracts for
publicly funded child care shall be entered into in accordance
with the provisions of this chapter and are exempt from any other
provision of the Revised Code that regulates state or county
contracts or contracts involving the expenditure of state, county,
or federal funds.

(B) Each contract for publicly funded child care shall 43052
specify at least the following: 43053

(1) That the provider of publicly funded child care agrees to 43054
be paid for rendering services at the lowest of the rate 43055
customarily charged by the provider for children enrolled for 43056
child care, the reimbursement ceiling or rate of payment 43057
established pursuant to section 5104.30 of the Revised Code, or a 43058
rate the county department negotiates with the provider; 43059

(2) That, if a provider provides child care to an individual 43060
potentially eligible for publicly funded child care who is 43061
subsequently determined to be eligible, the county department 43062
agrees to pay for all child care provided between the date the 43063
county department receives the individual's completed application 43064
and the date the individual's eligibility is determined; 43065

(3) Whether the county department of job and family services, 43066
the provider, or a child care resource and referral service 43067
organization will make eligibility determinations, whether the 43068
provider or a child care resource and referral service 43069
organization will be required to collect information to be used by 43070
the county department to make eligibility determinations, and the 43071
time period within which the provider or child care resource and 43072
referral service organization is required to complete required 43073
eligibility determinations or to transmit to the county department 43074
any information collected for the purpose of making eligibility 43075
determinations; 43076

(4) That the provider, other than a border state child care 43077
provider ~~or except as provided in division (B) of section 3301.37~~ 43078
~~of the Revised Code~~, shall continue to be licensed, approved, or 43079
certified pursuant to this chapter and shall comply with all 43080
standards and other requirements in this chapter and in rules 43081
adopted pursuant to this chapter for maintaining the provider's 43082

license, approval, or certification; 43083

(5) That, in the case of a border state child care provider, 43084
the provider shall continue to be licensed, certified, or 43085
otherwise approved by the state in which the provider is located 43086
and shall comply with all standards and other requirements 43087
established by that state for maintaining the provider's license, 43088
certificate, or other approval; 43089

(6) Whether the provider will be paid by the county 43090
department of job and family services or the state department of 43091
job and family services; 43092

(7) That the contract is subject to the availability of state 43093
and federal funds. 43094

(C) Unless specifically prohibited by federal law, the county 43095
department of job and family services shall give individuals 43096
eligible for publicly funded child care the option of obtaining 43097
certificates for payment that the individual may use to purchase 43098
services from any provider qualified to provide publicly funded 43099
child care under section 5104.31 of the Revised Code. Providers of 43100
publicly funded child care may present these certificates for 43101
payment for reimbursement in accordance with rules that the 43102
director of job and family services shall adopt. Only providers 43103
may receive reimbursement for certificates for payment. The value 43104
of the certificate for payment shall be based on the lowest of the 43105
rate customarily charged by the provider, the reimbursement 43106
ceiling or rate of payment established pursuant to section 5104.30 43107
of the Revised Code, or a rate the county department negotiates 43108
with the provider. The county department may provide the 43109
certificates for payment to the individuals or may contract with 43110
child care providers or child care resource and referral service 43111
organizations that make determinations of eligibility for publicly 43112
funded child care pursuant to contracts entered into under section 43113
5104.34 of the Revised Code for the providers or resource and 43114

referral service organizations to provide the certificates for 43115
payment to individuals whom they determine are eligible for 43116
publicly funded child care. 43117

For each six-month period a provider of publicly funded child 43118
care provides publicly funded child day-care to the child of an 43119
individual given certificates for payment, the individual shall 43120
provide the provider certificates for days the provider would have 43121
provided publicly funded child care to the child had the child 43122
been present. County departments shall specify the maximum number 43123
of days providers will be provided certificates of payment for 43124
days the provider would have provided publicly funded child care 43125
had the child been present. The maximum number of days shall not 43126
exceed ten days in a six-month period during which publicly funded 43127
child care is provided to the child regardless of the number of 43128
providers that provide publicly funded child care to the child 43129
during that period. 43130

Sec. 5104.38. In addition to any other rules adopted under 43131
this chapter, the director of job and family services shall adopt 43132
rules in accordance with Chapter 119. of the Revised Code 43133
governing financial and administrative requirements for publicly 43134
funded child care and establishing all of the following: 43135

(A) Procedures and criteria to be used in making 43136
determinations of eligibility for publicly funded child care that 43137
give priority to children of families with lower incomes and 43138
procedures and criteria for eligibility for publicly funded 43139
protective child care. The rules shall specify the maximum amount 43140
of income a family may have for initial and continued eligibility. 43141
The maximum amount shall not exceed two hundred per cent of the 43142
federal poverty line. 43143

(B) Procedures under which a county department of job and 43144
family services may, if the department, under division (A) of this 43145

section, specifies a maximum amount of income a family may have
for eligibility for publicly funded child care that is less than
the maximum amount specified in that division, specify a maximum
amount of income a family residing in the county the county
department serves may have for initial and continued eligibility
for publicly funded child care that is higher than the amount
specified by the department but does not exceed the maximum amount
specified in division (A) of this section;

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(C) A schedule of fees requiring all eligible caretaker
parents to pay a fee for publicly funded child care according to
income and family size, which shall be uniform for all types of
publicly funded child care, except as authorized by rule, and, to
the extent permitted by federal law, shall permit the use of state
and federal funds to pay the customary deposits and other advance
payments that a provider charges all children who receive child
care from that provider. The schedule of fees ~~may not provide for~~
~~a caretaker parent to pay a fee that exceeds ten per cent of the~~
~~parent's family income~~ shall be calculated as permitted by federal
law.

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(D) A formula based upon a percentage of the county's total
expenditures for publicly funded child care for determining the
maximum amount of state and federal funds appropriated for
publicly funded child care that a county department may use for
administrative purposes;

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(E) Procedures to be followed by the department and county
departments in recruiting individuals and groups to become
providers of child care;

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(F) Procedures to be followed in establishing state or local
programs designed to assist individuals who are eligible for
publicly funded child care in identifying the resources available
to them and to refer the individuals to appropriate sources to

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obtain child care;	43177
(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;	43178 43179
(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;	43180 43181
(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;	43182 43183
(J) A definition of "person who stands in loco parentis" for the purposes of division (II)(1) of section 5104.01 of the Revised Code;	43184 43185 43186
(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;	43187 43188 43189 43190 43191
(L) Any other rules necessary to carry out sections 5104.30 to 5104.39 of the Revised Code.	43192 43193
Sec. 5107.05. The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.	43194 43195 43196 43197 43198 43199 43200 43201 43202 43203 43204 43205 43206

(A) The rules shall specify, establish, or govern all of the following: 43207
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(1) A payment standard for Ohio works first based on federal and state appropriations; 43209
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(2) The method of determining the amount of cash assistance an assistance group receives under Ohio works first; 43211
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(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition. The rules regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code. 43213
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(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain; 43219
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(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department; 43222
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(6) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code; 43226
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(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code; 43229
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(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29). 43232
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(9) The ~~administration of~~ requirements governing the LEAP 43237
program provided for under section 5107.30 of the Revised Code, 43238
including the definitions of "equivalent of a high school diploma" 43239
and "good cause," and the incentives provided under the LEAP 43240
program; 43241

(10) If the director implements section 5107.301 of the 43242
Revised Code, the requirements governing the award provided under 43243
that section, including the form that the award is to take and 43244
requirements an individual must satisfy to receive the award; 43245

(11) Circumstances under which a county department of job and 43246
family services may exempt a minor head of household or adult from 43247
participating in a work activity or developmental activity for all 43248
or some of the weekly hours otherwise required by section 5107.43 43249
of the Revised Code. Circumstances shall include that a school or 43250
place of work is closed due to a holiday or weather or other 43251
emergency and that an employer grants the minor head of household 43252
or adult leave for illness or earned vacation. 43253

~~(11)~~(12) The maximum amount of time the department will 43254
subsidize positions created by state agencies and political 43255
subdivisions under division (C) of section 5107.52 of the Revised 43256
Code. 43257

(B) The rules may provide that a county department of job and 43258
family services is not required to take action under section 43259
5107.76 of the Revised Code to recover an erroneous payment that 43260
is below an amount the department specifies. 43261

Sec. 5107.10. (A) As used in this section: 43262

(1) "Countable income," "gross earned income," and "gross 43263
unearned income" have the meanings established in rules adopted 43264
under section 5107.05 of the Revised Code. 43265

(2) "Federal poverty guidelines" has the same meaning as in 43266

section 5101.46 of the Revised Code, except that references to a 43267
person's family in the definition shall be deemed to be references 43268
to the person's assistance group. 43269

(3) "Gross income" means gross earned income and gross 43270
unearned income. 43271

~~(3)~~(4) "Initial eligibility threshold" means the higher of 43272
the following: 43273

(a) Fifty per cent of the federal poverty guidelines; 43274

(b) The gross income maximum for initial eligibility for Ohio 43275
works first as that maximum was set by division (D)(1)(a) of this 43276
section on the day before the effective date of this amendment. 43277

(5) "Strike" means continuous concerted action in failing to 43278
report to duty; willful absence from one's position; or stoppage 43279
of work in whole from the full, faithful, and proper performance 43280
of the duties of employment, for the purpose of inducing, 43281
influencing, or coercing a change in wages, hours, terms, and 43282
other conditions of employment. "Strike" does not include a 43283
stoppage of work by employees in good faith because of dangerous 43284
or unhealthful working conditions at the place of employment that 43285
are abnormal to the place of employment. 43286

(B) Under the Ohio works first program, an assistance group 43287
shall receive, except as otherwise provided by this chapter, 43288
time-limited cash assistance. In the case of an assistance group 43289
that includes a minor head of household or adult, assistance shall 43290
be provided in accordance with the self-sufficiency contract 43291
entered into under section 5107.14 of the Revised Code. 43292

(C) To be eligible to participate in Ohio works first, an 43293
assistance group must meet all of the following requirements: 43294

(1) The assistance group, except as provided in division (E) 43295
of this section, must include at least one of the following: 43296

- (a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;
- (b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;
- (c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;
- (d) A woman at least six months pregnant.
- (2) The assistance group must meet the income requirements established by division (D) of this section.
- (3) No member of the assistance group may be involved in a strike.
- (4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and sections 5101.58, 5101.59, and 5101.83 of the Revised Code.
- (5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code.
- (D)(1) Except as provided in division (D)~~(3)~~(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following:
- (a) Determine whether the assistance group's gross income

exceeds the following amount:		43327
Size of Assistance Group	Gross Income	43328
1	\$423	43329
2	\$537	43330
3	\$630	43331
4	\$750	43332
5	\$858	43333
6	\$942	43334
7	\$1,038	43335
8	\$1,139	43336
9	\$1,241	43337
10	\$1,343	43338
11	\$1,440	43339
12	\$1,542	43340
13	\$1,643	43341
14	\$1,742	43342
15	\$1,844	43343

~~For each person in the assistance group that brings the assistance group to more than fifteen persons, add one hundred two dollars to the amount of gross income for an assistance group of fifteen specified in division (D)(1)(a) of this section.~~

~~In initial eligibility threshold. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds the amount specified in division (D)(1)(a) of this section initial eligibility threshold.~~

(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed the ~~amount specified in that division~~ initial

eligibility threshold, determine whether the assistance group's 43359
countable income is less than the payment standard. The assistance 43360
group is ineligible to participate in Ohio works first if the 43361
assistance group's countable income equals or exceeds the payment 43362
standard. 43363

(2) For the purpose of determining whether an assistance 43364
group meets the income requirement established by division 43365
(D)(1)(a) of this section, the annual revision that the United 43366
States department of health and human services makes to the 43367
federal poverty guidelines shall go into effect on the first day 43368
of July of the year for which the revision is made. 43369

(3) To determine whether an assistance group participating in 43370
Ohio works first continues to be eligible to participate, a county 43371
department of job and family services shall determine whether the 43372
assistance group's countable income continues to be less than the 43373
payment standard. In making this determination, the county 43374
department shall disregard the first two hundred fifty dollars and 43375
fifty per cent of the remainder of the assistance group's gross 43376
earned income. No amounts shall be disregarded from the assistance 43377
group's gross unearned income. The assistance group ceases to be 43378
eligible to participate in Ohio works first if its countable 43379
income, less the amounts disregarded, equals or exceeds the 43380
payment standard. 43381

~~(3)~~(4) If an assistance group reapplies to participate in 43382
Ohio works first not more than four months after ceasing to 43383
participate, a county department of job and family services shall 43384
use the income requirement established by division (D)~~(2)~~(3) of 43385
this section to determine eligibility for resumed participation 43386
rather than the income requirement established by division (D)(1) 43387
of this section. 43388

(E)(1) An assistance group may continue to participate in 43389
Ohio works first even though a public children services agency 43390

removes the assistance group's minor children from the assistance
group's home due to abuse, neglect, or dependency if the agency
does both of the following:

(a) Notifies the county department of job and family services
at the time the agency removes the children that it believes the
children will be able to return to the assistance group within six
months;

(b) Informs the county department at the end of each of the
first five months after the agency removes the children that the
parent, guardian, custodian, or specified relative of the children
is cooperating with the case plans prepared for the children under
section 2151.412 of the Revised Code and that the agency is making
reasonable efforts to return the children to the assistance group.

(2) An assistance group may continue to participate in Ohio
works first pursuant to division (E)(1) of this section for not
more than six payment months. This division does not affect the
eligibility of an assistance group that includes a woman at least
six months pregnant.

Sec. 5107.26. (A) As used in this section:

(1) "Transitional child care" means publicly funded child
care provided under division (A)(3) of section 5104.34 of the
Revised Code.

(2) "Transitional medicaid" means the medical assistance
provided under section ~~5111.023~~ 5111.0114 of the Revised Code.

(B) Except as provided in division (C) of this section, each
member of an assistance group participating in Ohio works first is
ineligible to participate in the program for six payment months if
a county department of job and family services determines that a
member of the assistance group terminated the member's employment
and each person who, on the day prior to the day a recipient

begins to receive transitional child care or transitional
medicaid, was a member of the recipient's assistance group is
ineligible to participate in Ohio works first for six payment
months if a county department determines that the recipient
terminated the recipient's employment.

(C) No assistance group member shall lose or be denied
eligibility to participate in Ohio works first pursuant to
division (B) of this section if the termination of employment was
because an assistance group member or recipient of transitional
child care or transitional medicaid secured comparable or better
employment or the county department of job and family services
certifies that the member or recipient terminated the employment
with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex,
color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued
employment unreasonable, such as working without being paid on
schedule;

(3) Employment that has become unsuitable due to any of the
following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout,
unless the strike has been enjoined under section 208 of the
"Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A.
178, as amended, an injunction has been issued under section 10 of
the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as
amended, or an injunction has been issued under section 4117.16 of
the Revised Code;

(c) The documented degree of risk to the member or

recipient's health and safety is unreasonable; 43451

(d) The member or recipient is physically or mentally unfit 43452
to perform the employment, as documented by medical evidence or by 43453
reliable information from other sources. 43454

(4) Documented illness of the member or recipient or of 43455
another assistance group member of the member or recipient 43456
requiring the presence of the member or recipient; 43457

(5) A documented household emergency; 43458

(6) Lack of adequate child care for children of the member or 43459
recipient who are under six years of age. 43460

Sec. 5107.30. (A) As used in this section: 43461

(1) "Equivalent of a high school diploma" and "good cause" 43462
have the meanings established in rules adopted under section 43463
5107.05 of the Revised Code. 43464

(2) "LEAP program" means the learning, earning, and parenting 43465
program. 43466

~~(2)~~ (3) "Participating teen" means an individual to 43467
whom all of the following apply: 43468

(a) The individual is a participant of Ohio works first who; 43469

(b) The individual is under age eighteen or is age eighteen 43470
and in school and is a natural or adoptive parent or is pregnant; 43471

(c) The individual is subject to the LEAP program's 43472
requirements. 43473

~~(3)~~(4) "School" means an educational program that is designed 43474
to lead to the attainment of a high school diploma or the 43475
equivalent of a high school diploma. 43476

(B) The director of job and family services may ~~adopt rules~~ 43477
~~under section 5107.05 of the Revised Code, to the extent that such~~ 43478

~~rules are consistent with federal law, to do all of the following:~~ 43479

~~(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;~~ 43480
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~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 43482
~~establish requirements governing the program in accordance with~~ 43483
rules adopted under section 5107.05 of the Revised Code. The 43484
purpose of the LEAP program is to encourage teens to complete 43485
school. 43486

~~(3) Require every~~ Every participating ~~teen who is subject to~~ 43487
~~LEAP program requirements to~~ shall attend school in accordance 43488
with the requirements governing the LEAP program unless the 43489
participating teen shows good cause for not attending school. The 43490
department shall provide, in addition to the cash assistance 43491
payment provided under Ohio works first, an incentive payment, in 43492
an amount determined by the department, to every participating 43493
teen ~~who is participating in the LEAP program and~~ attends school 43494
in accordance with the requirements governing the LEAP program. In 43495
addition to the incentive payment, the department may provide 43496
other incentives to participating teens who attend school in 43497
accordance with the LEAP program's requirements. The department 43498
shall reduce the cash assistance payment, in an amount determined 43499
by the department, under Ohio works first to every participating 43500
teen ~~participating in the LEAP program~~ who fails or refuses, 43501
without good cause, to meet the LEAP program's requirements 43502
~~governing the program.~~ 43503

~~(4) Require every~~ Every participating ~~teen who is subject to~~ 43504
~~LEAP program requirements to~~ shall enter into a written agreement 43505
with the county department of job and family services that 43506
~~provides~~ specifies all of the following: 43507

~~(a)~~(1) The participating teen, to be eligible to receive the 43508
incentive payment and other incentives, if any, under ~~division~~ 43509

~~(B)(3)~~ of this section, must meet the requirements of the LEAP program. 43510
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~~(b)(2)~~ The ~~county department will provide the~~ incentive payment ~~to the teen~~ and other incentives, if any, will be provided if the participating teen meets the requirements of the LEAP program. 43512
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~~(c)(3)~~ The ~~county department will reduce the~~ participating ~~teen's~~ cash assistance payment under Ohio works first will be reduced if the participating teen fails or refuses without good cause to attend school in accordance with the requirements governing the LEAP program. 43516
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(C) A minor head of household who is participating in the LEAP program shall be considered to be participating in a work activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the minor head of household is not subject to the requirements or sanctions of those sections. 43521
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(D) Subject to the availability of funds, county departments of job and family services shall provide for ~~LEAP participants~~ participating teens to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child care under Chapter 5104. of the Revised Code, transportation, and other services. 43526
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Sec. 5107.301. For the purpose of encouraging individuals who have successfully completed the requirements of the LEAP program to enroll in post-secondary education, the director of job and family services may provide an award to such individuals who enroll in post-secondary education. If provided, the award shall be provided in accordance with rules adopted under section 5107.05 of the Revised Code. 43533
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Sec. 5107.58. In accordance with a federal waiver granted by 43540
the United States secretary of health and human services pursuant 43541
to a request made under former section 5101.09 of the Revised 43542
Code, county departments of job and family services may establish 43543
and administer as a work activity for minor heads of households 43544
and adults participating in Ohio works first an education program 43545
under which the participant is enrolled full-time in 43546
post-secondary education leading to vocation at a state 43547
institution of higher education, as defined in section 3345.031 of 43548
the Revised Code; a private nonprofit college or university that 43549
possesses a certificate of authorization issued by the Ohio board 43550
of regents pursuant to Chapter 1713. of the Revised Code, or is 43551
exempted by division (E) of section 1713.02 of the Revised Code 43552
from the requirement of a certificate; a school that holds a 43553
certificate of registration and program authorization issued by 43554
the state board of career colleges and schools under Chapter 3332. 43555
of the Revised Code; a private institution exempt from regulation 43556
under Chapter 3332. of the Revised Code as prescribed in section 43557
3333.046 of the Revised Code; or a school that has entered into a 43558
contract with the county department of job and family services. 43559
The participant shall make reasonable efforts, as determined by 43560
the county department, to obtain a loan, scholarship, grant, or 43561
other assistance to pay for the tuition, including a federal Pell 43562
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 43563
under section 3333.12 of the Revised Code, and an Ohio college 43564
opportunity grant under section 3333.122 of the Revised Code. If 43565
the participant has made reasonable efforts but is unable to 43566
obtain sufficient assistance to pay the tuition the program may 43567
pay the tuition. On or after October 1, 1998, the county 43568
department may enter into a loan agreement with the participant to 43569
pay the tuition. The total period for which tuition is paid and 43570
loans made shall not exceed two years. If the participant, 43571

pursuant to division (B)(3) of section 5107.43 of the Revised Code, volunteers to participate in the education program for more hours each week than the participant is assigned to the program, the program may pay or the county department may loan the cost of the tuition for the additional voluntary hours as well as the cost of the tuition for the assigned number of hours. The participant may receive, for not more than three years, support services, including publicly funded child care under Chapter 5104. of the Revised Code and transportation, that the participant needs to participate in the program. To receive support services in the third year, the participant must be, as determined by the educational institution in which the participant is enrolled, in good standing with the institution.

A county department that provides loans under this section shall establish procedures governing loan application for and approval and administration of loans granted pursuant to this section.

Sec. 5110.01. As used in this chapter:

(A) "Administrative fee" means the amount specified in rules adopted under division (G) of section 5110.35 of the Revised Code.

(B) "Children's health insurance program" means the children's health insurance program part I and part II established under sections 5101.50 to 5101.5110 of the Revised Code.

~~(C) "Disability medical assistance program" means the program established under section 5115.10 of the Revised Code.~~

~~(D)~~ "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

~~(E)~~(D) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug

Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 43602

~~(F)~~(E) "Ohio's best Rx program administrator" means the 43603
entity, if any, the department of job and family services 43604
contracts with pursuant to section 5110.10 of the Revised Code to 43605
perform administrative functions of the Ohio's best Rx program and 43606
to offer the mail order system through which Ohio's best Rx 43607
program participants may obtain drugs by mail. 43608

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" 43609
means an individual who signs an application for the Ohio's best 43610
Rx program and submits it to the department of job and family 43611
services, or the Ohio's best Rx program administrator, for a 43612
determination of eligibility for the program. 43613

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" 43614
means an individual determined eligible for the Ohio's best Rx 43615
program and included under a valid Ohio's best Rx program 43616
enrollment card. 43617

~~(I)~~(H) "Ohio's best Rx program price" means the price a 43618
participating terminal distributor is to charge an Ohio's best Rx 43619
program participant for a drug included in the Ohio's best Rx 43620
program as determined under section 5110.14 of the Revised Code. 43621
"Ohio's best Rx program price" does not include either of the 43622
following: 43623

(1) The amount of the professional fee, if any, the 43624
participating terminal distributor adds to the Ohio's best Rx 43625
program price pursuant to an agreement under section 5110.12 of 43626
the Revised Code; 43627

(2) The amount of the administrative fee, if any, the 43628
department of job and family services reports to the participating 43629
terminal distributor under section 5110.29 of the Revised Code. 43630

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 43631
participating in the Ohio's best Rx program pursuant to a rebate 43632

agreement. 43633

~~(K)~~(J) "Participating terminal distributor" means a terminal 43634
distributor of dangerous drugs participating in the Ohio's best Rx 43635
program pursuant to an agreement entered into with the department 43636
of job and family services under section 5110.12 of the Revised 43637
Code. 43638

~~(L)~~(K) "Per unit price," with regard to a state health 43639
benefit plan or state retirement system health benefit plan, means 43640
the total amount paid to a terminal distributor of dangerous drugs 43641
under a state health benefit plan or state retirement system 43642
health benefit plan for one unit of a drug covered by the plan, 43643
after the plan discounts or otherwise reduces the amount to be 43644
paid to the terminal distributor. "Per unit price" includes both 43645
of the following: 43646

(1) The amount that the state health benefit plan or state 43647
retirement system health benefit plan, or other government entity 43648
or person authorized to make the payment on behalf of the plan, 43649
pays to the terminal distributor of dangerous drugs; 43650

(2) The amount that the beneficiary of the state health 43651
benefit plan or state retirement system health benefit plan pays 43652
to the terminal distributor of dangerous drugs in the form of a 43653
copayment, coinsurance, or other cost-sharing charge. 43654

~~(M)~~(L) "Per unit rebate," with regard to a state health 43655
benefit plan or state retirement system health benefit plan, means 43656
all rebates, discounts, formulary fees, administrative fees, and 43657
other allowances a drug manufacturer pays to the plan, or other 43658
government entity or person authorized to receive all or part of 43659
such payments, for a drug during a calendar year, divided by the 43660
total number of units of that drug dispensed under the plan during 43661
the same calendar year. 43662

~~(N)~~(M) "Rebate administration percentage" means the 43663

percentage specified in rules adopted under division (K) of 43664
section 5110.35 of the Revised Code. 43665

~~(O)~~(N) "Rebate agreement" means an agreement under section 43666
5110.21 of the Revised Code between the department of job and 43667
family services and a drug manufacturer. 43668

~~(P)~~(O) "State health benefit plan" means a program of health 43669
care benefits offered through the Ohio med preferred provider 43670
organization, or a successor entity selected by the state, to 43671
which either of the following apply: 43672

(1) It is provided by a collective bargaining agreement 43673
authorized by division (A)(4) of section 4117.03 of the Revised 43674
Code. 43675

(2) It is offered by the department of administrative 43676
services to state employees in accordance with section 124.81 or 43677
124.82 of the Revised Code. 43678

~~(Q)~~(P) "State retirement system" means all of the following: 43679
the public employees retirement system, state teachers retirement 43680
system, school employees retirement system, Ohio police and fire 43681
pension fund, and state highway patrol retirement system. 43682

~~(R)~~(O) "State retirement system health benefit plan" means a 43683
plan of health care benefits offered by a state retirement system 43684
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 43685
Revised Code. 43686

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same 43687
meaning as in section 4729.01 of the Revised Code. 43688

~~(T)~~(S) "Third-party payer" has the same meaning as in section 43689
3901.38 of the Revised Code. 43690

~~(U)~~(T) "Trade secret" has the same meaning as in section 43691
1333.61 of the Revised Code. 43692

~~(V)~~(U) "Usual and customary charge" means the amount a 43693

participating terminal distributor or the Ohio's best Rx program 43694
administrator charges for a drug included in the program to an 43695
individual who does not receive a discounted price for the drug 43696
pursuant to any drug discount program, including the Ohio's best 43697
Rx program, a prescription drug discount card program established 43698
under section 173.061 of the Revised Code, or a pharmacy 43699
assistance program established by any person or government entity, 43700
and for whom no third-party payer or program funded in whole or 43701
part with state or federal funds is responsible for all or part of 43702
the cost of the drug the distributor dispenses to the individual. 43703

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx 43704
program, an individual must meet all of the following requirements 43705
at the time of application or reapplication for the program: 43706

(1) Be a resident of this state; 43707

(2) Have family income, as determined under rules adopted 43708
pursuant to section 5110.35 of the Revised Code, that does not 43709
exceed two hundred fifty per cent of the federal poverty 43710
guidelines, as revised annually by the United States department of 43711
health and human services in accordance with section 673(2) of the 43712
"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 43713
U.S.C. 9902, as amended, or be sixty years of age or older; 43714

(3) Not have outpatient prescription drug coverage paid for 43715
in whole or in part by any of the following: 43716

(a) A third-party payer; 43717

(b) The medicaid program; 43718

(c) The children's health insurance program; 43719

(d) ~~The disability medical assistance program;~~ 43720

~~(e)~~ Another health plan or pharmacy assistance program that 43721
uses state or federal funds to pay part or all of the cost of the 43722
individual's outpatient prescription drugs, other than a 43723

prescription drug discount card program established under section 43724
173.061 of the Revised Code. 43725

(4) Not have had outpatient prescription drug coverage 43726
specified in division (A)(3) of this section during any of the 43727
four months preceding the month in which the application or 43728
reapplication for the Ohio's best Rx program is made, unless any 43729
of the following applies: 43730

(a) The individual is sixty years of age or older. 43731

(b) The third-party payer that paid all or part of the 43732
coverage filed for bankruptcy under federal bankruptcy laws. 43733

(c) The individual is no longer eligible for coverage 43734
provided through a retirement plan subject to protection under the 43735
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 43736
29 U.S.C. 1001, as amended. 43737

(d) The individual is no longer eligible for the medicaid 43738
program, or children's health insurance program, ~~or disability~~ 43739
~~medical assistance program.~~ 43740

(B) Application and annual reapplication for the Ohio's best 43741
Rx program shall be made in accordance with rules adopted under 43742
section 5110.35 of the Revised Code on a form prescribed in those 43743
rules. An individual may apply or reapply on behalf of the 43744
individual and the individual's spouse and children. The guardian 43745
or custodian of an individual may apply or reapply on behalf of 43746
the individual. 43747

Sec. 5110.352. As used in this section, "medicaid dispensing 43748
fee" means the dispensing fee established under section ~~5111.08~~ 43749
5111.071 of the Revised Code for the medicaid program. 43750

In adopting a rule under division (F) of section 5110.35 of 43751
the Revised Code increasing the maximum amount of the professional 43752
fee participating terminal distributors may charge Ohio's best Rx 43753

program participants under section 5110.12 of the Revised Code and 43754
the Ohio's best Rx program administrator may charge under a 43755
contract entered into under section 5110.10 of the Revised Code, 43756
the department of job and family services shall review the amount 43757
of the professional fee once a year or, at the department's 43758
discretion, at more frequent intervals and shall not increase the 43759
professional fee to an amount exceeding the medicaid dispensing 43760
fee. 43761

A participating terminal distributor and the Ohio's best Rx 43762
program administrator may charge a maximum three dollar 43763
professional fee regardless of whether the medicaid dispensing fee 43764
for that drug is less than that amount. The department, however, 43765
may not adopt a rule increasing the maximum professional fee for 43766
that drug until the medicaid dispensing fee for that drug exceeds 43767
that amount. 43768

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of 43769
March of each year, the department of job and family services 43770
shall do all of the following: 43771

(A) Create a list of the twenty-five drugs most often 43772
dispensed to Ohio's best Rx program participants under the 43773
program, using data from the most recent six-month period for 43774
which the data is available; 43775

(B) Determine the average amount that participating terminal 43776
distributors charge, on a date selected by the department, 43777
participants for each drug included on the list created under 43778
division (A) of this section; 43779

(C) Determine, for the date selected for division (B) of this 43780
section, the average usual and customary charge of participating 43781
terminal distributors for each drug included on the list created 43782
under division (A) of this section; 43783

(D) By comparing the average charges determined under 43784
divisions (B) and (C) of this section, determine the average 43785
percentage savings in the amount participating terminal 43786
distributors charge Ohio's best Rx program participants for each 43787
drug included on the list created under division (A) of this 43788
section. 43789

Sec. 5111.019. (A) The director of job and family services 43790
shall submit to the United States secretary of health and human 43791
services an amendment to the state medicaid plan to make an 43792
individual who meets all of the following requirements eligible 43793
for medicaid for the amount of time provided by division (B) of 43794
this section: 43795

(1) The individual is the parent of a child under nineteen 43796
years of age and resides with the child; 43797

(2) The individual's family income does not exceed ~~one~~ 43798
~~hundred~~ ninety per cent of the federal poverty guidelines; 43799

(3) The individual is not otherwise eligible for medicaid; 43800

(4) The individual satisfies all relevant requirements 43801
established by rules adopted under division (D) of section 5111.01 43802
of the Revised Code. 43803

(B) An individual is eligible to receive medicaid under this 43804
section for a period that does not exceed two years beginning on 43805
the date on which eligibility is established. 43806

~~(C) If approved by the United States secretary of health and 43807
human services and the director of job and family services, the 43808
director shall implement the medicaid plan amendment submitted 43809
under this section not sooner than July 1, 2000. If a federal 43810
waiver is necessary for the United States secretary to approve the 43811
amendment, the director of job and family services shall submit a 43812
waiver request to the United States secretary not later than 43813~~

~~ninety days after the effective date of this section.~~

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Sec. 5111.0112. ~~(A) The director of job and family services shall examine instituting~~ institute a copayment program under medicaid. ~~As part of the examination, the director shall determine which~~ Except as provided in division (C) of this section, the copayment program shall establish a copayment requirement for all groups of medicaid recipients may be subjected to a copayment requirement under and medicaid services to the extent permitted by federal statutes and regulations. If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the The amount of the copayments shall be the maximum amount permitted by 42 C.F.R. 447.54 or a regulation that replaces it. The director shall adopt rules in accordance with Chapter 119. under section 5111.02 of the Revised Code governing the copayment program.

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(B) The copayment program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

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(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

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(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

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(a) Relieve the medicaid recipient from the obligation to pay a copayment;

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(b) Prohibit the provider from attempting to collect an unpaid copayment. 43844
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(3) No provider shall waive a medicaid recipient's obligation to pay the provider a copayment. 43846
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(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient. 43848
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(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the copayment program as an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services. 43852
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(C) The director shall exclude generic drugs from the copayment program instituted under this section. 43859
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Sec. ~~5111.023~~ 5111.0114. (A) The department of job and family services may provide medical assistance under ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in addition to such assistance provided under section 5111.01 of the Revised Code~~ the medicaid program, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under Chapter 5107. of the Revised Code who meets all of the following requirements: 43861
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(1) Is ineligible to participate in Ohio works first solely as a result of increased income due to employment; 43870
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(2) Is not covered by, and does not have access to, medical insurance coverage through the employer with benefits comparable 43872
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to those provided under this section, as determined in accordance 43874
with rules adopted by the director of job and family services 43875
under division (B) of this section; 43876

(3) Meets any other requirement established by rule adopted 43877
under division (B) of this section. 43878

(B) The director of job and family services shall adopt such 43879
rules under Chapter 119. of the Revised Code as are necessary to 43880
implement and administer the medical assistance program under this 43881
section. 43882

(C) A person seeking to participate in a program of medical 43883
assistance under this section shall apply to the county department 43884
of job and family services in the county in which the applicant 43885
resides. The application shall be made on a form prescribed by the 43886
department of job and family services and furnished by the county 43887
department. 43888

(D) If the county department of job and family services 43889
determines that a person is eligible to receive medical assistance 43890
under this section, the department shall provide assistance, to 43891
the same extent and in the same manner as medical assistance is 43892
provided to a person eligible for medical assistance pursuant to 43893
division (A)(1)(a) of section 5111.01 of the Revised Code, for no 43894
longer than twelve months, beginning the month after the date the 43895
participant's eligibility for Ohio works first is terminated. 43896

Sec. 5111.02. (A) As used in this chapter, "state medicaid 43897
plan service" means a service covered by the medicaid program 43898
pursuant to the state medicaid plan, or an amendment to the plan, 43899
approved by the United States secretary of health and human 43900
services. "State medicaid plan service" does not include either of 43901
the following because they are not included in the state medicaid 43902
plan or an amendment to the plan: 43903

<u>(1) Services provided under the care management system</u>	43904
<u>established under section 5111.16 of the Revised Code;</u>	43905
<u>(2) Services provided under a medicaid waiver component as</u>	43906
<u>defined in section 5111.85 of the Revised Code.</u>	43907
<u>(B) The director of job and family services shall adopt, and</u>	43908
<u>may amend or rescind, rules under Chapter 119. of the Revised Code</u>	43909
<u>establishing the amount, duration, and scope of state medicaid</u>	43910
<u>plan services. The rules shall be consistent with federal and</u>	43911
<u>state law and the state medicaid plan, and amendments to the plan,</u>	43912
<u>approved by the United States secretary of health and human</u>	43913
<u>services. The rules may be different for different state medicaid</u>	43914
<u>plan services. The rules shall establish all of the following:</u>	43915
<u>(1) The conditions under which the medicaid program shall</u>	43916
<u>cover and reimburse state medicaid plan services;</u>	43917
<u>(2) The method of reimbursement applicable to each state</u>	43918
<u>medicaid plan service;</u>	43919
<u>(3) The amount of reimbursement or, in lieu of amounts,</u>	43920
<u>methods by which amounts are to be determined for each state</u>	43921
<u>medicaid plan service;</u>	43922
<u>(4) Procedures for enforcing the rules adopted under this</u>	43923
<u>section that provide due process protections, including procedures</u>	43924
<u>for corrective action plans for, and imposing financial and</u>	43925
<u>administrative sanctions on, persons and government entities that</u>	43926
<u>violate the rules.</u>	43927
Sec. 5111.02 <u>5111.021</u>. (A) Under the medical assistance	43928
<u>medicaid</u> program:	43929
(1) (A) Except as otherwise permitted by federal statute or	43930
regulation and at the department's discretion, reimbursement by	43931
the department of job and family services to a medical provider	43932
for any medical service rendered under the program shall not	43933

exceed the authorized reimbursement level for the same service 43934
under the medicare program established under Title XVIII of the 43935
"Social Security Act," 49 79 Stat. 620 286 (1935 1965), 42 43936
U.S.C.A. ~~301~~ 1395, as amended. 43937

~~(2)~~(B) Reimbursement for freestanding medical laboratory 43938
charges shall not exceed the customary and usual fee for 43939
laboratory profiles. 43940

~~(3)~~(C) The department may deduct from payments for services 43941
rendered by a medicaid provider under the ~~medical assistance~~ 43942
medicaid program any amounts the provider owes the state as the 43943
result of incorrect ~~medical assistance~~ medicaid payments the 43944
department has made to the provider. 43945

~~(4)~~(D) The department may conduct final fiscal audits in 43946
accordance with the applicable requirements set forth in federal 43947
laws and regulations and determine any amounts the provider may 43948
owe the state. When conducting final fiscal audits, the department 43949
shall consider generally accepted auditing standards, which 43950
include the use of statistical sampling. 43951

~~(5)~~(E) The number of days of inpatient hospital care for 43952
which reimbursement is made on behalf of a medicaid recipient ~~of~~ 43953
~~medical assistance~~ to a hospital that is not paid under a 43954
diagnostic-related-group prospective payment system shall not 43955
exceed thirty days during a period beginning on the day of the 43956
recipient's admission to the hospital and ending sixty days after 43957
the termination of that hospital stay, except that the department 43958
may make exceptions to this limitation. The limitation does not 43959
apply to children participating in the program for medically 43960
handicapped children established under section 3701.023 of the 43961
Revised Code. 43962

~~(B) The director of job and family services may adopt, amend,~~ 43963
~~or rescind rules under Chapter 119. of the Revised Code~~ 43964

~~establishing the amount, duration, and scope of medical services to be included in the medical assistance program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.~~

~~(C)(F)~~ The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. ~~5111.021~~ 5111.022. Under the ~~medical assistance~~ medicaid program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section ~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that the provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the director of job and family services shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The

director shall notify the provider by mail of the lien, but 43996
absence of proof that the notice was sent does not affect the 43997
validity of the lien. The lien is not valid as against the claim 43998
of any mortgagee, pledgee, purchaser, judgment creditor, or other 43999
lienholder of record at the time the notice is filed. 44000

If the provider acquires real or personal property after 44001
notice of the lien is filed, the lien shall not be valid as 44002
against the claim of any mortgagee, pledgee, subsequent bona fide 44003
purchaser for value, judgment creditor, or other lienholder of 44004
record to such after-acquired property unless the notice of lien 44005
is refiled after the property is acquired by the provider and 44006
before the competing lien attaches to the after-acquired property 44007
or before the conveyance to the subsequent bona fide purchaser for 44008
value. 44009

When the amount has been paid, the provider may record with 44010
the recorder notice of the payment. For recording such notice of 44011
payment, the recorder shall charge and receive from the provider a 44012
base fee of one dollar for services and a housing trust fund fee 44013
of one dollar pursuant to section 317.36 of the Revised Code. 44014

In the event of a distribution of a provider's assets 44015
pursuant to an order of any court under the law of this state 44016
including any receivership, assignment for benefit of creditors, 44017
adjudicated insolvency, or similar proceedings, amounts then or 44018
thereafter due the state under this chapter have the same priority 44019
as provided by law for the payment of taxes due the state and 44020
shall be paid out of the receivership trust fund or other such 44021
trust fund in the same manner as provided for claims for unpaid 44022
taxes due the state. 44023

If the attorney general finds after investigation that any 44024
amount due the state under this chapter is uncollectable, in whole 44025
or in part, the attorney general shall recommend to the director 44026
the cancellation of all or part of the claim. The director may 44027

thereupon effect the cancellation. 44028

Sec. ~~5111.022~~ 5111.023. (A) As used in this section: 44029

(1) "Community mental health facility" means a community 44030
mental health facility that has a quality assurance program 44031
accredited by the joint commission on accreditation of healthcare 44032
organizations or is certified by the department of mental health 44033
or department of job and family services. 44034

(2) "Mental health professional" means a person qualified to 44035
work with mentally ill persons under the standards established by 44036
the director of mental health pursuant to section 5119.611 of the 44037
Revised Code. 44038

(B) The state medicaid plan shall include provision of the 44039
following mental health services when provided by community mental 44040
health facilities: 44041

(1) Outpatient mental health services, including, but not 44042
limited to, preventive, diagnostic, therapeutic, rehabilitative, 44043
and palliative interventions rendered to individuals in an 44044
individual or group setting by a mental health professional in 44045
accordance with a plan of treatment appropriately established, 44046
monitored, and reviewed; 44047

(2) Partial-hospitalization mental health services of three 44048
to fourteen hours per service day, rendered by persons directly 44049
supervised by a mental health professional; 44050

(3) Unscheduled, emergency mental health services of a kind 44051
ordinarily provided to persons in crisis when rendered by persons 44052
supervised by a mental health professional; 44053

(4) Subject to receipt of federal approval, assertive 44054
community treatment and intensive home-based mental health 44055
services. 44056

(C) The comprehensive annual plan shall certify the 44057
availability of sufficient unencumbered community mental health 44058
state subsidy and local funds to match federal medicaid 44059
reimbursement funds earned by community mental health facilities. 44060

(D) The department of job and family services shall enter 44061
into a separate contract with the department of mental health 44062
under section 5111.91 of the Revised Code with regard to the 44063
component of the medicaid program provided for by this section. 44064

(E) Not later than July 21, 2004, the department of job and 44065
family services shall request federal approval to provide 44066
assertive community treatment and intensive home-based mental 44067
health services under medicaid pursuant to this section. 44068

(F) On receipt of federal approval sought under division (E) 44069
of this section, the director of job and family services shall 44070
adopt rules in accordance with Chapter 119. of the Revised Code 44071
for assertive community treatment and intensive home-based mental 44072
health services provided under medicaid pursuant to this section. 44073
The director shall consult with the department of mental health in 44074
adopting the rules. 44075

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 44076
the Revised Code, the director of job and family services shall 44077
modify the manner or establish a new manner in which the following 44078
are paid under medicaid: 44079

(1) Community mental health facilities for providing mental 44080
health services included in the state medicaid plan pursuant to 44081
section ~~5111.022~~ 5111.023 of the Revised Code; 44082

(2) Providers of alcohol and drug addiction services for 44083
providing alcohol and drug addiction services included in the 44084
medicaid program pursuant to rules adopted under section 5111.02 44085
of the Revised Code. 44086

(B) The director's authority to modify the manner, or to 44087
establish a new manner, for medicaid to pay for the services 44088
specified in division (A) of this section is not limited by any 44089
rules adopted under section 5111.02 or 5119.61 of the Revised Code 44090
that are in effect on ~~the effective date of this section~~ June 26, 44091
2003, and govern the way medicaid pays for those services. This is 44092
the case regardless of what state agency adopted the rules. 44093

Sec. 5111.026. The court of common pleas of Franklin county 44094
shall have exclusive, original jurisdiction over any action or 44095
proceeding for declaratory or injunctive relief regarding payments 44096
to providers of goods and services under the Medicaid program that 44097
are not subject to the provisions of section 5111.06 of the 44098
Revised Code. 44099

Sec. 5111.027. If the medicaid program provides prescription 44100
drug services to medicaid recipients, the program shall not 44101
provide reimbursement for prescription drugs for treatment of 44102
erectile dysfunction. 44103

Sec. 5111.042. The departments of mental retardation and 44104
developmental disabilities and job and family services may 44105
approve, reduce, deny, or terminate a service included in the 44106
individualized service plan developed for a medicaid recipient 44107
with mental retardation or other developmental disability who is 44108
eligible for medicaid case management services. ~~The departments~~ 44109
~~shall consider the recommendations a county board of mental~~ 44110
~~retardation and developmental disabilities makes under division~~ 44111
~~(B)(1) of section 5126.055 of the Revised Code.~~ If either 44112
department approves, reduces, denies, or terminates a service, 44113
that department shall timely notify the medicaid recipient that 44114
the recipient may request a hearing under section 5101.35 of the 44115
Revised Code. 44116

Sec. 5111.06. (A)(1) As used in this section <u>and in sections</u>	44117
<u>5111.061 and 5111.062 of the Revised Code:</u>	44118
(a) "Provider" means any person, institution, or entity that	44119
furnishes medicaid services under a provider agreement with the	44120
department of job and family services pursuant to Title XIX of the	44121
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as	44122
amended.	44123
(b) "Party" has the same meaning as in division (G) of	44124
section 119.01 of the Revised Code.	44125
(c) "Adjudication" has the same meaning as in division (D) of	44126
section 119.01 of the Revised Code.	44127
(2) This section does not apply to any action taken by the	44128
department of job and family services under sections 5111.35 to	44129
5111.62 of the Revised Code.	44130
(B) Except as provided in division (D) of this section <u>and</u>	44131
<u>section 5111.914 of the Revised Code</u> , the department shall do	44132
either of the following by issuing an order pursuant to an	44133
adjudication conducted in accordance with Chapter 119. of the	44134
Revised Code:	44135
(1) Enter into or refuse to enter into a provider agreement	44136
with a provider, or suspend, terminate, renew, or refuse to renew	44137
an existing provider agreement with a provider;	44138
(2) Take any action based upon a final fiscal audit of a	44139
provider.	44140
(C) Any party who is adversely affected by the issuance of an	44141
adjudication order under division (B) of this section may appeal	44142
to the court of common pleas of Franklin county in accordance with	44143
section 119.12 of the Revised Code.	44144
(D) The department is not required to comply with division	44145

(B)(1) of this section whenever any of the following occur: 44146

(1) The terms of a provider agreement require the provider to 44147
have a license, permit, or certificate issued by an official, 44148
board, commission, department, division, bureau, or other agency 44149
of state government other than the department of job and family 44150
services, and the license, permit, or certificate has been denied 44151
or revoked. 44152

(2) The provider agreement is denied, terminated, or not 44153
renewed pursuant to division (C) or (E) of section 5111.03 of the 44154
Revised Code; 44155

(3) The provider agreement is denied, terminated, or not 44156
renewed due to the provider's termination, suspension, or 44157
exclusion from the medicare program established under Title XVIII 44158
of the "Social Security Act," and the termination, suspension, or 44159
exclusion is binding on the provider's participation in the 44160
medicaid program; 44161

(4) The provider agreement is denied, terminated, or not 44162
renewed due to the provider's pleading guilty to or being 44163
convicted of a criminal activity materially related to either the 44164
medicare or medicaid program; 44165

(5) The provider agreement is denied, terminated, or 44166
suspended as a result of action by the United States department of 44167
health and human services and that action is binding on the 44168
provider's participation in the medicaid program; 44169

(6) The provider agreement is terminated or not renewed 44170
because the provider has not billed or otherwise submitted a 44171
medicaid claim to the department for two years or longer, and the 44172
department has determined that the provider has moved from the 44173
address on record with the department without leaving an active 44174
forwarding address with the department. 44175

In the case of a provider described in division (D)(6) of this section, the department may terminate or not renew the provider agreement by sending a notice explaining the department's proposed action to the address on record with the department. The notice may be sent by regular mail. 44176
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(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code. 44181
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Sec. 5111.061. (A) The department of job and family services may recover, at any time, a medicaid payment or portion of a payment made to a provider to which the provider is not entitled. Among the overpayments that may be recovered under this section are the following: 44194
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(1) Payment for a service, or a day of service, not rendered; 44199

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate; 44200
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(3) Payment of a service, or day of service, that was paid by, or partially paid by, a third-party payer, as defined in section 3901.38 of the Revised Code, and the payment or partial payment was not offset against the amount paid by the medicaid 44202
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<u>program to reduce or eliminate the amount that was paid by the</u>	44206
<u>medicaid program;</u>	44207
<u>(4) Payment when a medicaid recipient's responsibility for</u>	44208
<u>payment was understated and resulted in an overpayment to the</u>	44209
<u>provider.</u>	44210
<u>(B) The department is authorized to recover overpayments</u>	44211
<u>under this section prior to or after any of the following:</u>	44212
<u>(1) Adjudication of a final fiscal audit that section 5111.06</u>	44213
<u>of the Revised Code requires to be conducted in accordance with</u>	44214
<u>Chapter 119. of the Revised Code;</u>	44215
<u>(2) Adjudication of a finding under any other provision of</u>	44216
<u>this chapter or the rules adopted under it;</u>	44217
<u>(3) Expiration of the time to issue a final fiscal audit that</u>	44218
<u>section 5111.06 of the Revised Code requires to be conducted in</u>	44219
<u>accordance with Chapter 119. of the Revised Code;</u>	44220
<u>(4) Expiration of the time to issue a finding under any other</u>	44221
<u>provision of this chapter or the rules adopted under it.</u>	44222
<u>(C)(1) Subject to division (C)(2) of this section, the</u>	44223
<u>recovery of an overpayment under this section does not preclude</u>	44224
<u>the department from subsequently doing the following:</u>	44225
<u>(a) Issuing a final fiscal audit in accordance with Chapter</u>	44226
<u>119. of the Revised Code, as required under section 5111.06 of the</u>	44227
<u>Revised Code;</u>	44228
<u>(b) Issuing a finding under any other provision of this</u>	44229
<u>chapter or the rules adopted under it.</u>	44230
<u>(2) A final fiscal audit or finding issued subsequent to the</u>	44231
<u>recovery of an overpayment under this section shall be reduced by</u>	44232
<u>the amount of the prior recovery, as appropriate.</u>	44233
<u>(D) Nothing in this section limits the department's authority</u>	44234

to recover overpayments pursuant to any other provision of the 44235
Revised Code. 44236

Sec. 5111.062. In any action taken by the department of job 44237
and family services under section 5111.06 or 5111.061 of the 44238
Revised Code or any other provision of this chapter that requires 44239
the department to give notice of an opportunity for a hearing in 44240
accordance with Chapter 119. of the Revised Code, if the 44241
department gives notice of the opportunity for a hearing but the 44242
provider or other entity subject to the notice does not request a 44243
hearing or timely request a hearing in accordance with section 44244
119.07 of the Revised Code, the department is not required to hold 44245
a hearing. The director of job and family service may proceed by 44246
issuing a final adjudication order in accordance with Chapter 119. 44247
of the Revised Code. 44248

Sec. 5111.072. (A) As used in this section: 44249

(1) "Institutionalized medicaid recipient" means a recipient 44250
of assistance under this chapter who resides in a nursing facility 44251
or intermediate care facility for the mentally retarded. 44252

(2) "Intermediate care facility for the mentally retarded" 44253
and "nursing facility" have the same meanings as in section 44254
5111.20 of the Revised Code. 44255

(3) "Long-term care pharmacy management incentive payment 44256
program" means the medicaid program component administered by the 44257
department of job and family services from July 1, 2002, to June 44258
30, 2004, under rule 5101:3-9-08 of the Administrative Code. 44259

(B) To the extent permitted by federal law, the department of 44260
job and family services shall provide for the resumed operation of 44261
the long-term care pharmacy management incentive payment program 44262
on and after July 1, 2005. In administering the program, the 44263
department is subject to all of the following: 44264

(1) As necessary to operate the program in the manner specified by this section, the department shall apply to the United States secretary of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the administration of the program. 44265
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(2) The department shall require a pharmacy to participate in the program as a condition of being reimbursed under this chapter for providing pharmacy services to institutionalized medicaid recipients. If a pharmacy provides pharmacy services to other medicaid recipients, that portion of the pharmacy's business shall be excluded from the program. 44270
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(3) The department shall distribute the program's management incentive payments to qualified pharmacies on a quarterly basis during each state fiscal year. 44276
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(4) The department may contract with a pharmacy benefits manager or any other entity to perform all or part of the department's duties regarding the program, other than the duties specified in division (B)(1) of this section. 44279
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(5) The department may adopt any rules it considers necessary to implement and administer the program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 44283
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Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to 44286
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establish the supplemental drug rebate program. 44295

If the director establishes a supplemental drug rebate 44296
program, the director shall consult with drug manufacturers 44297
regarding the establishment and implementation of the program. 44298

~~If the director establishes a supplemental drug rebate 44299
program, the director shall exempt from the program all of a drug 44300
manufacturer's drug products that have been approved by the United 44301
States food and drug administration for the treatment of either of 44302
the following: 44303~~

~~(A) Mental illness, as defined in section 5122.01 of the 44304
Revised Code, including schizophrenia, major depressive disorder, 44305
and bipolar disorder; 44306~~

~~(B) HIV or AIDS, both as defined in section 3701.24 of the 44307
Revised Code. 44308~~

Sec. 5111.083. (A) As used in this section: 44309

(1) "Control number" means the number assigned to a 44310
prescription drug by the drug's manufacturer. 44311

(2) "Maximum allowable cost" means the price established for 44312
a prescription drug pursuant to the federal upper limit drug 44313
listing published by the United States department of health and 44314
human services in part six, addendum A of the "State Medicaid 44315
Manual." 44316

(B) The director of job and family services shall establish a 44317
program to do both of the following on a daily basis: 44318

(1) Update the maximum allowable cost for each generic 44319
prescription drug available under the medicaid program; 44320

(2) Update the control number for each generic prescription 44321
drug available under the medicaid program. 44322

(C) The director may adopt rules in accordance with Chapter 44323
119. of the Revised Code to implement this section. 44324

Sec. 5111.10. The director of job and family services may 44325
conduct reviews of the medicaid program. The reviews may include 44326
physical inspections of records and sites where medicaid-funded 44327
services are provided and interviews of providers and recipients 44328
of the services. If the director determines pursuant to a review 44329
that a person or government entity has violated a rule governing 44330
the medicaid program, the director may establish a corrective 44331
action plan for the violator and impose fiscal, administrative, or 44332
both types of sanctions on the violator in accordance with rules 44333
governing the medicaid program. Such action to be taken against a 44334
responsible entity, as defined in section 5101.24 of the Revised 44335
Code, shall be taken in accordance with that section. 44336

Sec. 5111.11. (A) As used in this section, ~~"estate" means all~~ 44337
and section 5111.111 of the Revised Code: 44338

(1) "Estate" includes both of the following: 44339

(a) All real and personal property and other assets to be 44340
administered under Title XXI of the Revised Code and property that 44341
would be administered under that title if not for section 2113.03 44342
or 2113.031 of the Revised Code; 44343

(b) Any other real and personal property and other assets in 44344
which an individual had any legal title or interest at the time of 44345
death (to the extent of the interest), including assets conveyed 44346
to a survivor, heir, or assign of the individual through joint 44347
tenancy, tenancy in common, survivorship, life estate, living 44348
trust, or other arrangement. 44349

(2) "Institution" means a nursing facility, intermediate care 44350
facility for the mentally retarded, or a medical institution. 44351

(3) "Institutionalized individual" means an individual to whom all of the following apply: 44352
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(a) Is an inpatient in an institution; 44354

(b) Is required, as a condition of the medicaid program paying for the individual's services in the institution, to spend for costs of medical or nursing care all of the individual's income except for an amount for personal needs specified by the department of job and family services; 44355
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(c) Cannot reasonably be expected to be discharged from the institution and return home. 44360
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(4) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code. 44362
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(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death. 44365
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~~(B) For the purpose of recovering the cost of services correctly paid under the medical assistance program to a recipient age fifty five or older, the The department of job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of a program of that nature. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty one or blind or permanently and totally disabled.~~ 44370
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~~The department may enter into a contract with any person 44382
under which the person administers the estate recovery program on 44383
behalf of the department or performs any of the functions required 44384
to carry out the program. The contract may provide for the person 44385
to be compensated from the property recovered from the estates of 44386
medical assistance recipients or may provide for another manner of 44387
compensation agreed to by the person and the department. 44388
Regardless of whether it is administered by the department or a 44389
person under contract with the department, the program shall be 44390
administered in accordance with applicable requirements of federal 44391
law and regulations and state law and rules. 44392~~

~~(C) under which the department shall, except as provided in 44393
divisions (C) and (D) of this section, do both of the following: 44394~~

~~(1) For the costs of services the medicaid program correctly 44395
pays on behalf of an institutionalized individual of any age, seek 44396
adjustment or recovery from the individual's estate or on the sale 44397
of property of the individual or spouse that is subject to a lien 44398
imposed under section 5111.111 of the Revised Code; 44399~~

~~(2) For the costs of services the medicaid program correctly 44400
pays on behalf of an individual fifty-five years of age or older 44401
who is not an institutionalized individual, seek adjustment or 44402
recovery from the individual's estate. 44403~~

~~(C)(1) No adjustment or recovery may be made under division 44404
(B)(1) of this section from an institutionalized individual's 44405
estate or on the sale of property of an institutionalized 44406
individual that is subject to a lien imposed under section 44407
5111.111 of the Revised Code or under division (B)(2) of this 44408
section from an individual's estate while either of the following 44409
are alive: 44410~~

~~(a) The spouse of the institutionalized individual or 44411
individual; 44412~~

(b) The son or daughter of an institutionalized individual or individual if the son or daughter is under age twenty-one or, under 42 U.S.C. 1382c, is considered blind or disabled. 44413
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(2) No adjustment or recovery may be made under division (B)(1) of this section from an institutionalized individual's home that is subject to a lien imposed under section 5111.111 of the Revised Code while either of the following lawfully reside in the home: 44416
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(a) The institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the institutionalized individual's admission to the institution and on a continuous basis since that time; 44421
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(b) The institutionalized individual's son or daughter who provided care to the institutionalized individual that delayed the institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the institutionalized individual's admission to the institution and on a continuous basis since that time. 44425
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(D) The department ~~may~~ shall waive seeking an adjustment or recovery of ~~medical assistance correctly paid otherwise required by this section~~ if the director of job and family services determines, on the basis of criteria established by the United States secretary of health and human services under 42 U.S.C. 1396p (b)(3), as amended, that adjustment or recovery would work an undue hardship. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing procedures for waiver of adjustment or recovery due to an undue hardship, which shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended. 44431
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~~(D) Any action that may be taken by the department under~~ 44443

section 5111.111 of the Revised Code may be taken by a person 44444
administering the program, or performing actions specified in that 44445
section, pursuant to a contract with the department. 44446

(E) For the purpose of determining whether an individual 44447
meets the definition of "institutionalized individual" established 44448
for this section, a rebuttable presumption exists that the 44449
individual cannot reasonably be expected to be discharged from an 44450
institution and return home if either of the following is the 44451
case: 44452

(1) The individual declares that he or she does not intend to 44453
return home; 44454

(2) The individual has been an inpatient in an institution 44455
for at least six months without a discharge plan. 44456

Sec. 5111.111. ~~As used in this section, "home and 44457
community based services" means services provided pursuant to a 44458
waiver under section 1915 of the "Social Security Act," 49 Stat. 44459
620 (1935), 42 U.S.C.A. 1396n, as amended. 44460~~

The (A) Except as provided in division (B) of this section 44461
and section 5111.12 of the Revised Code, no lien may be imposed 44462
against the property of an individual before the individual's 44463
death on account of medicaid paid or to be paid on the 44464
individual's behalf. 44465

(B) Except as provided in division (C) of this section, the 44466
department of job and family services may ~~plae~~ impose a lien 44467
against the real property of a ~~medical assistance~~ medicaid 44468
recipient ~~or~~ who is an institutionalized individual and against 44469
the real property of the recipient's spouse, other than a 44470
~~recipient or spouse of a recipient of home and community based~~ 44471
~~services, that the department may recover as part of the program~~ 44472
~~instituted under section 5111.11 of the Revised Code including any~~ 44473

real property that is jointly held by the recipient and spouse. 44474
~~When medical assistance is paid on behalf of any person in~~ 44475
~~circumstances under which federal law and regulations and this~~ 44476
~~section permit the imposition of a lien, the~~ The lien may be 44477
imposed on account of medicaid paid or to be paid on the 44478
recipient's behalf. 44479

(C) No lien may be imposed under division (B) of this section 44480
against the home of a medicaid recipient if any of the following 44481
lawfully resides in the home: 44482

(1) The recipient's spouse; 44483

(2) The recipient's son or daughter who is under twenty-one 44484
years of age or, under 42 U.S.C. 1382c, considered to be blind or 44485
disabled; 44486

(3) The recipient's sibling who has an equity interest in the 44487
home and resided in the home for at least one year immediately 44488
before the date of the recipient's admission to the institution. 44489

(D) The director of job and family services or a person 44490
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 44491
~~effect~~ effectuate a lien required to be imposed under this 44492
section. The county department of job and family services shall 44493
file for recording and indexing the certificate, or a certified 44494
copy, in the real estate mortgage records in the office of the 44495
county recorder in every county in which real property of the 44496
recipient or spouse is situated. From the time of filing the 44497
certificate in the office of the county recorder, the lien 44498
attaches to all real property of the recipient or spouse described 44499
therein in the certificate for all amounts ~~of aid which are paid~~ 44500
~~or which thereafter are paid,~~ for which adjustment or recovery may 44501
be made under section 5111.11 of the Revised Code and, except as 44502
provided in division (E) of this section, shall remain a lien 44503
until satisfied. 44504

Upon filing the certificate in the office of the recorder, 44505
all persons are charged with notice of the lien and the rights of 44506
the department of job and family services thereunder. 44507

The county recorder shall keep a record of every certificate 44508
filed showing its date, the time of filing, the name and residence 44509
of the recipient or spouse, and any release, waivers, or 44510
satisfaction of the lien. 44511

The priority of the lien shall be established in accordance 44512
with state and federal law. 44513

The department may waive the priority of its lien to provide 44514
for the costs of the last illness as determined by the department, 44515
administration, attorney fees, administrator fees, a sum for the 44516
payment of the costs of burial, which shall be computed by 44517
deducting from five hundred dollars whatever amount is available 44518
for the same purpose from all other sources, and a similar sum for 44519
the spouse of the decedent. 44520

(E) A lien imposed with respect to a medicaid recipient under 44521
this section shall dissolve on the recipient's discharge from the 44522
institution and return home. 44523

Sec. 5111.112. The department of job and family services may 44524
enter into a contract with any person or government entity under 44525
which the person or government entity administers the estate 44526
recovery program instituted under section 5111.11 of the Revised 44527
Code on behalf of the department or performs any of the functions 44528
required to carry out the program. The contract may provide for 44529
the person or government entity to be compensated from the 44530
property recovered under the program or may provide for another 44531
manner of compensation agreed to by the person or government 44532
entity and the department. Regardless of whether it is 44533
administered by the department or a person or government entity 44534

under contract with the department, the program shall be 44535
administered in accordance with applicable requirements of federal 44536
law and regulations and state law and rules. 44537

Any action that may be taken by the department under section 44538
5111.111 of the Revised Code may be taken by a person or 44539
government entity administering the program, or performing actions 44540
specified in that section, pursuant to a contract with the 44541
department. 44542

Sec. ~~5111.112~~ 5111.113. (A) As used in this section: 44543

(1) "Adult care facility" has the same meaning as in section 44544
3722.01 of the Revised Code. 44545

(2) "Commissioner" means a person appointed by a probate 44546
court under division (B) of section 2113.03 of the Revised Code to 44547
act as a commissioner. 44548

(3) "Home" has the same meaning as in section 3721.10 of the 44549
Revised Code. 44550

(4) "Personal needs allowance account" means an account or 44551
petty cash fund that holds the money of a resident of an adult 44552
care facility or home and that the facility or home manages for 44553
the resident. 44554

(B) Except as provided in divisions (C) and (D) of this 44555
section, the owner or operator of an adult care facility or home 44556
shall transfer to the department of job and family services the 44557
money in the personal needs allowance account of a resident of the 44558
facility or home who was a recipient of the medical assistance 44559
program no earlier than sixty days but not later than ninety days 44560
after the resident dies. The adult care facility or home shall 44561
transfer the money even though the owner or operator of the 44562
facility or home has not been issued letters testamentary or 44563

letters of administration concerning the resident's estate. 44564

(C) If funeral or burial expenses for a resident of an adult 44565
care facility or home who has died have not been paid and the only 44566
resource the resident had that could be used to pay for the 44567
expenses is the money in the resident's personal needs allowance 44568
account, or all other resources of the resident are inadequate to 44569
pay the full cost of the expenses, the money in the resident's 44570
personal needs allowance account shall be used to pay for the 44571
expenses rather than being transferred to the department of job 44572
and family services pursuant to division (B) of this section. 44573

(D) If, not later than sixty days after a resident of an 44574
adult care facility or home dies, letters testamentary or letters 44575
of administration are issued, or an application for release from 44576
administration is filed under section 2113.03 of the Revised Code, 44577
concerning the resident's estate, the owner or operator of the 44578
facility or home shall transfer the money in the resident's 44579
personal needs allowance account to the administrator, executor, 44580
commissioner, or person who filed the application for release from 44581
administration. 44582

(E) The transfer or use of money in a resident's personal 44583
needs allowance account in accordance with division (B), (C), or 44584
(D) of this section discharges and releases the adult care 44585
facility or home, and the owner or operator of the facility or 44586
home, from any claim for the money from any source. 44587

(F) If, sixty-one or more days after a resident of an adult 44588
care facility or home dies, letters testamentary or letters of 44589
administration are issued, or an application for release from 44590
administration under section 2113.03 of the Revised Code is filed, 44591
concerning the resident's estate, the department of job and family 44592
services shall transfer the funds to the administrator, executor, 44593
commissioner, or person who filed the application, unless the 44594

department is entitled to recover the money under the estate 44595
recovery program instituted under section 5111.11 of the Revised 44596
Code. 44597

Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing 44598
facility" and "intermediate care facility for the ~~mental~~ mentally 44599
retarded" have the same meanings as in section 5111.20 of the 44600
Revised Code. 44601

In determining the amount of income that a recipient of 44602
medical assistance must apply monthly toward payment of the cost 44603
of care in a nursing facility or intermediate care facility for 44604
the mentally retarded, the county department of job and family 44605
services shall deduct from the recipient's monthly income a 44606
monthly personal needs allowance in accordance with section 1902 44607
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 44608
1396a, as amended. 44609

For a resident of a nursing facility, the monthly personal 44610
needs allowance shall be not less than forty dollars for an 44611
individual resident and not less than eighty dollars for a married 44612
couple if both spouses are residents of a nursing facility. 44613

For a resident of an intermediate care facility for the 44614
mentally retarded, the monthly personal needs allowance shall be 44615
forty dollars unless the resident has earned income, in which case 44616
the monthly personal needs allowance shall be determined by the 44617
state department of job and family services but shall not exceed 44618
one hundred five dollars. 44619

Sec. 5111.16. (A) As part of the medicaid program, the 44620
department of job and family services shall establish a care 44621
management system. The department shall submit, if necessary, 44622
applications to the United States department of health and human 44623
services for waivers of federal medicaid requirements that would 44624

otherwise be violated in the implementation of the system. 44625

(B) The department shall implement the care management system 44626
in some or all counties and shall designate the medicaid 44627
recipients who are required or permitted to participate in the 44628
system. In implementing the care management system and designating 44629
participants, all of the following apply: 44630

(1) The department may designate one or more counties as a 44631
mandatory managed care enrollment service area where medicaid 44632
recipients designated by the department are required to enroll in 44633
and obtain health care services through a managed care 44634
organization under contract with the department pursuant to 44635
section 5111.17 of the Revised Code. 44636

(2) Beginning July 1, 2006, the department shall designate 44637
for participation in the care management system all persons who 44638
receive medicaid on the basis of being aged, blind, or disabled, 44639
as specified in division (A)(2) of section 5111.01 of the Revised 44640
Code, except that the department shall not include the following: 44641

(a) Persons who are under twenty-one years of age, other than 44642
chronically ill children who are included as participants for 44643
purposes of the pilot program established under section 5111.161 44644
of the Revised Code; 44645

(b) Persons who are institutionalized; 44646

(c) Persons who become eligible for medicaid by spending down 44647
their income to a level that meets the program's financial 44648
eligibility requirements; 44649

(d) Persons who are dually eligible under the medicaid 44650
program and the medicare program established under Title XVIII of 44651
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 44652
amended; 44653

(e) Persons to the extent that they are receiving medicaid 44654

services through a medicaid waiver component, as defined in 44655
section 5111.85 of the Revised Code. 44656

(3) In the case of medicaid recipients required under 44657
division (B)(2) of this section to be designated as participants 44658
in the care management system, the system shall be implemented in 44659
all counties and the participants shall be required to enroll in 44660
health insuring corporations under contract with the department 44661
pursuant to section 5111.17 of the Revised Code. 44662

(4) Alcohol, drug addiction, and mental health services 44663
covered by medicaid pursuant to the option under federal law of 44664
covering rehabilitative services shall not be included in any 44665
component of the care management system, but recipients of the 44666
services may be designated as participants in the system for 44667
purposes of obtaining other services covered by medicaid. 44668

~~(B) Under the care management system~~ (C) Subject to divisions 44669
(B)(3) and (4) of this section, the department may do both of the 44670
following under the care management system: 44671

(1) Require or permit participants in the system to obtain 44672
health care services from providers designated by the department; 44673

(2) ~~require~~ Require or permit participants in the system to 44674
obtain health care services through managed care organizations 44675
under contract with the department pursuant to section 5111.17 of 44676
the Revised Code. 44677

~~(C)~~ (D) The director of job and family services may adopt 44678
rules in accordance with Chapter 119. of the Revised Code to 44679
implement this section. 44680

Sec. 5111.161. (A) As used in this section, "chronically ill 44681
child" means an individual who is not more than twenty-one years 44682
of age and meets the conditions specified in division (A)(2) of 44683
section 5111.01 of the Revised Code to be eligible for medicaid on 44684

the basis of being blind or disabled.

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(B) The department of job and family services shall develop a pilot program under which chronically ill children are included among the medicaid recipients who are required to participate in the care management system established under section 5111.16 of the Revised Code. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2008, except that the department shall cease operation of the program before that date if either of the following is the case:

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(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services;

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(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars.

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(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The department may extend its operation of the program into the areas surrounding the counties in which the program is operated.

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(D) The purpose of the pilot program shall be to determine whether occurrences of acute illnesses and hospitalizations among chronically ill children can be prevented or reduced by establishing a medical home for the children where care is administered proactively and in a manner that is accessible, continuous, family-centered, coordinated, and compassionate. In

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establishing a medical home for a chronically ill child, all of 44715
the following apply: 44716

(1) A physician shall serve as the care coordinator for the 44717
child. The care coordinator may be engaged in practice as a 44718
pediatrician certified in pediatrics by a medical specialty board 44719
of the American medical association or American osteopathic 44720
association, a pediatric subspecialist, or a provider for the 44721
program for medically handicapped children in the department of 44722
health. If the physician is in a group practice, any member of the 44723
group practice may serve as the child's care coordinator. The 44724
duties of the care coordinator may be performed by a person acting 44725
under the supervision of the care coordinator. 44726

(2) The child may receive care from any health care 44727
practitioner appropriate to the child's needs, but the care 44728
coordinator shall direct and oversee the child's overall care. 44729

(3) The care coordinator shall establish a relationship of 44730
mutual responsibility with the child's parents or other persons 44731
who are responsible for the child. Under this relationship, the 44732
care coordinator shall commit to developing a long-term disease 44733
prevention strategy and providing disease management and education 44734
services, while the child's parents or other persons who are 44735
responsible for the child shall commit to participating fully in 44736
implementing the child's care management plan. 44737

(4) The medicaid program shall provide reimbursement for the 44738
reasonable and necessary costs of the services associated with 44739
care coordination, including, but not limited to, case management, 44740
care plan oversight, preventive care, health and behavioral care 44741
assessment and intervention, and any service modifier that 44742
reflects the provision of prolonged services or additional care. 44743

(E) The department shall conduct an evaluation of the pilot 44744
program's effectiveness. As part of the evaluation, the department 44745

shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation. 44746
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(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program. 44749
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Sec. 5111.176. (A) As used in this section: 44754

(1) "Mandatory managed care enrollment service area" means the county or counties included in an area designated under division (B)(1) of section 5111.16 of the Revised Code as an area where medicaid recipients are required to enroll in and obtain health care services through a managed care organization. 44755
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(2) "Mandatory managed care medicaid recipient" means a medicaid recipient designated under division (B)(1) of section 5111.16 of the Revised Code as a medicaid recipient required to enroll in and obtain health care services through a managed care organization in a mandatory managed care enrollment service area. 44760
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(3) "Noncontracting hospital" means a hospital to which all of the following apply: 44765
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(a) The hospital participates in the medicaid program; 44767

(b) The hospital is located in a mandatory managed care enrollment service area; 44768
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(c) The hospital has not entered into a contract with a managed care organization to provide services to mandatory managed care medicaid recipients. 44770
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(B)(1) Subject to division (B)(2) of this section, a managed care organization under contract with the department pursuant to 44773
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section 5111.17 of the Revised Code to provide or arrange for the 44775
provision of health care services to mandatory managed care 44776
medicaid recipients shall reimburse a noncontracting hospital for 44777
providing services to the recipients according to a reimbursement 44778
rate that is the same as the reimbursement rate used by the 44779
department of job and family services to reimburse the hospital 44780
for providing services to medicaid recipients who are not enrolled 44781
in a managed care organization. 44782

(2) The reimbursement rate established under division (B)(1) 44783
of this section applies only to services authorized by the managed 44784
care organization. The establishment of a reimbursement rate under 44785
that division does not restrict the managed care organization from 44786
entering into a contract with a hospital under which the hospital 44787
is reimbursed at a different rate. 44788

(C) A noncontracting hospital shall do both of the following: 44789

(1) Provide hospital services to mandatory managed care 44790
medicaid recipients when the services have been authorized by the 44791
managed care organization in which the recipients are enrolled; 44792

(2) Accept the reimbursement provided by the managed care 44793
organization under division (B) of this section as payment in full 44794
for services provided in accordance with division (C)(1) of this 44795
section. 44796

(D) The director of job and family services may adopt rules 44797
in accordance with Chapter 119. of the Revised Code to implement 44798
this section. 44799

Sec. 5111.177. (A) As used in this section: 44800

(1) "Medicaid health insuring corporation" means a health 44801
insuring corporation that holds a certificate of authority under 44802
Chapter 1751. of the Revised Code and has entered into a contract 44803
with the department of job and family services pursuant to section 44804

5111.17 of the Revised Code. 44805

(2) "Managed care premium" means any premium payment, 44806
capitation payment, or other payment a medicaid health insuring 44807
corporation receives for providing, or arranging for the provision 44808
of, health care services to its members or enrollees residing in 44809
this state. 44810

(B) Except as provided in division (C) of this section, all 44811
of the following apply: 44812

(1) Each medicaid health insuring corporation shall pay to 44813
the department of job and family services a franchise permit fee 44814
for each calendar quarter occurring between January 1, 2006, and 44815
June 30, 2007. 44816

(2) The fee to be paid is an amount that is equal to a 44817
percentage of the managed care premiums the medicaid health 44818
insuring corporation received in the quarter to which the fee 44819
applies, excluding the amount of any managed care premiums the 44820
corporation returned or refunded to enrollees, members, or premium 44821
payers during that quarter. 44822

(3) The percentage to be used in calculating the fee shall be 44823
four and one-half per cent, unless the department adopts rules 44824
under division (L) of this section decreasing the percentage below 44825
four and one-half per cent or increasing the percentage to not 44826
more than six per cent. 44827

(C) The department shall reduce the franchise permit fee 44828
imposed under this section or terminate its collection of the fee 44829
if the department determines either of the following: 44830

(1) That the reduction or termination is required to comply 44831
with federal statutes or regulations; 44832

(2) That the fee does not qualify as a state share of 44833
medicaid expenditures eligible for federal financial 44834

participation. 44835

(D) The franchise permit fee shall be paid on or before the thirtieth day following the end of the calendar quarter to which the fee applies. At the time the fee is submitted, the medicaid health insuring corporation shall file with the department a report on a form prescribed by the department. The corporation shall provide on the form all information required by the department and shall include with the form any necessary supporting documentation. 44836
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(E) The department may audit the records of any medicaid health insuring corporation to determine whether the corporation is in compliance with this section. The department may audit the records that pertain to a particular calendar quarter at any time during the five years following the date the franchise permit fee payment for that quarter was due. 44844
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(F)(1) A medicaid health insuring corporation that does not pay the franchise permit fee in full by the date the payment is due is subject to any or all of the following: 44850
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(a) A monetary penalty in the amount of five hundred dollars for each day any part of the fee remains unpaid, except that the penalty shall not exceed an amount equal to five per cent of the total fee that was due for the calendar quarter for which the penalty is being imposed; 44853
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(b) Withholdings from future managed care premiums pursuant to division (G) of this section; 44858
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(c) Termination of the corporation's medicaid provider agreement pursuant to division (H) of this section. 44860
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(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee. 44862
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(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid. 44865
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(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following: 44874
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(1) Fails to pay its franchise permit fee or fails to pay the fee promptly; 44878
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(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly; 44880
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(3) Fails to cooperate with an audit conducted under division (E) of this section. 44882
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(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case: 44884
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(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section. 44888
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(2) The department is proposing to terminate the corporation's medicaid provider agreement and the provisions of section 5111.06 of the Revised Code requiring an adjudication in accordance with Chapter 119. of the Revised Code are applicable. 44891
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(J)(1) At the request of a medicaid corporation, the 44895
department shall grant the corporation a reconsideration of any 44896
issue that arises out of the provisions of this section and is not 44897
subject to division (I) of this section. The department's decision 44898
at the conclusion of the reconsideration is not subject to appeal 44899
under Chapter 119. of the Revised Code or any other provision of 44900
the Revised Code. 44901

(2) In conducting a reconsideration, the department shall do 44902
at least the following: 44903

(a) Specify the time frames within which a corporation must 44904
act in order to exercise its opportunity for a reconsideration; 44905

(b) Permit the corporation to present written arguments or 44906
other materials that support the corporation's position. 44907

(K) There is hereby created in the state treasury the managed 44908
care assessment fund. Money collected from the franchise permit 44909
fees and penalties imposed under this section shall be credited to 44910
the fund. The department shall use the money in the fund to pay 44911
for medicaid services, the department's administrative costs, and 44912
contracts with medicaid health insuring corporations. 44913

(L) The director of job and family services may adopt rules 44914
to implement and administer this section. The rules shall be 44915
adopted in accordance with Chapter 119. of the Revised Code. 44916

Sec. 5111.19. The director of job and family services shall 44917
adopt rules governing the calculation and payment of graduate 44918
medical education costs associated with services rendered to 44919
medicaid recipients of the medical assistance program after June 44920
30, 1994. The Subject to section 5111.191 of the Revised Code, the 44921
rules shall provide for reimbursement of graduate medical 44922
education costs associated with services rendered to ~~medical~~ 44923
~~assistance~~ medicaid recipients, including recipients enrolled in 44924

~~health insuring corporations~~ a managed care organization under 44925
contract with the department under section 5111.17 of the Revised 44926
Code, that the department determines are allowable and reasonable. 44927

If the department requires a ~~health insuring corporation~~ 44928
managed care organization to pay a provider for graduate medical 44929
education costs associated with the delivery of services to 44930
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 44931
organization, the department shall include in its payment to the 44932
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 44933
organization to pay such costs. If the department does not include 44934
in its payments to the ~~health insuring corporation~~ managed care 44935
organization amounts for graduate medical education costs of 44936
providers, all of the following apply: 44937

(A) ~~The~~ Except as provided in section 5111.191 of the Revised 44938
Code, the department shall pay the provider for graduate medical 44939
education costs associated with the delivery of services to 44940
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 44941
organization; 44942

(B) No provider shall seek reimbursement from the ~~corporation~~ 44943
organization for such costs; 44944

(C) The ~~corporation~~ organization is not required to pay 44945
providers for such costs. 44946

Sec. 5111.191. The department of job and family services 44947
shall not pay a hospital for graduate medical education costs 44948
associated with the delivery of services to any medicaid recipient 44949
if the hospital refuses without good cause to contract with a 44950
managed care organization that contracts with the department under 44951
section 5111.17 of the Revised Code to provide, or arrange for the 44952
provision of, health care services to medicaid recipients residing 44953
in the county, or a mandatory managed care enrollment service area 44954
designated by the department under section 5111.16 of the Revised 44955

Code, in which the hospital is located. The director of job and 44956
family services shall specify in the rules adopted under section 44957
5111.19 of the Revised Code what constitutes good cause for a 44958
hospital to refuse to contract with a managed care organization. 44959

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.33 44960
of the Revised Code: 44961

(A) "Allowable costs" are those costs determined by the 44962
department of job and family services to be reasonable and do not 44963
include fines paid under sections 5111.35 to 5111.61 and section 44964
5111.99 of the Revised Code. 44965

(B) "Ancillary and support costs" means all reasonable costs 44966
incurred by a nursing facility other than direct care costs or 44967
capital costs. "Ancillary and support costs" includes, but is not 44968
limited to, costs of activities, social services, pharmacy 44969
consultants, medical and habilitation records, program supplies, 44970
incontinence supplies, food, enterals, dietary supplies and 44971
personnel, laundry, housekeeping, security, administration, 44972
medical equipment, utilities, liability insurance, bookkeeping, 44973
purchasing department, human resources, communications, travel, 44974
dues, license fees, subscriptions, home office costs not otherwise 44975
allocated, legal services, accounting services, minor equipment, 44976
maintenance and repairs, help-wanted advertising, informational 44977
advertising, start-up costs, organizational expenses, other 44978
interest, property insurance, employee training and staff 44979
development, employee benefits, payroll taxes, and workers' 44980
compensation premiums or costs for self-insurance claims and 44981
related costs as specified in rules adopted by the director of job 44982
and family services under section 5111.02 of the Revised Code, for 44983
personnel listed in this division. "Ancillary and support costs" 44984
also means the cost of equipment, including vehicles, acquired by 44985

operating lease executed before December 1, 1992, if the costs are 44986
reported as administrative and general costs on the facility's 44987
cost report for the cost reporting period ending December 31, 44988
1992. 44989

(C) "Capital costs" means costs of ownership and, in the case 44990
of an intermediate care facility for the mentally retarded, costs 44991
of nonextensive renovation. 44992

(1) "Cost of ownership" means the actual expense incurred for 44993
all of the following: 44994

(a) Depreciation and interest on any capital assets that cost 44995
five hundred dollars or more per item, including the following: 44996

(i) Buildings; 44997

(ii) Building improvements that are not approved as 44998
nonextensive renovations under section ~~5111.25~~ or 5111.251 of the 44999
Revised Code; 45000

(iii) ~~Equipment~~ Except as provided in division (B) of this 45001
section, equipment; 45002

(iv) ~~Extensive~~ In the case of an intermediate care facility 45003
for the mentally retarded, extensive renovations; 45004

(v) Transportation equipment. 45005

(b) Amortization and interest on land improvements and 45006
leasehold improvements; 45007

(c) Amortization of financing costs; 45008

(d) Except as provided in division ~~(I)~~(J) of this section, 45009
lease and rent of land, building, and equipment. 45010

The costs of capital assets of less than five hundred dollars 45011
per item may be considered capital costs ~~of ownership~~ in 45012
accordance with a provider's practice. 45013

(2) "Costs of nonextensive renovation" means the actual 45014

expense incurred by an intermediate care facility for the mentally 45015
retarded for depreciation or amortization and interest on 45016
renovations that are not extensive renovations. 45017

~~(C)~~(D) "Capital lease" and "operating lease" shall be 45018
construed in accordance with generally accepted accounting 45019
principles. 45020

~~(D)~~(E) "Case-mix score" means the measure determined under 45021
section ~~5111.231~~ 5111.232 of the Revised Code of the relative 45022
direct-care resources needed to provide care and habilitation to a 45023
resident of a nursing facility or intermediate care facility for 45024
the mentally retarded. 45025

~~(E)~~(F) "Date of licensure," for a facility originally 45026
licensed as a nursing home under Chapter 3721. of the Revised 45027
Code, means the date specific beds were originally licensed as 45028
nursing home beds under that chapter, regardless of whether they 45029
were subsequently licensed as residential facility beds under 45030
section 5123.19 of the Revised Code. For a facility originally 45031
licensed as a residential facility under section 5123.19 of the 45032
Revised Code, "date of licensure" means the date specific beds 45033
were originally licensed as residential facility beds under that 45034
section. 45035

(1) If nursing home beds licensed under Chapter 3721. of the 45036
Revised Code or residential facility beds licensed under section 45037
5123.19 of the Revised Code were not required by law to be 45038
licensed when they were originally used to provide nursing home or 45039
residential facility services, "date of licensure" means the date 45040
the beds first were used to provide nursing home or residential 45041
facility services, regardless of the date the present provider 45042
obtained licensure. 45043

(2) If a facility adds nursing home beds or residential 45044
facility beds or extensively renovates all or part of the facility 45045

after its original date of licensure, it will have a different 45046
date of licensure for the additional beds or extensively renovated 45047
portion of the facility, unless the beds are added in a space that 45048
was constructed at the same time as the previously licensed beds 45049
but was not licensed under Chapter 3721. or section 5123.19 of the 45050
Revised Code at that time. 45051

~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost 45052
report submitted under section 5111.26 of the Revised Code have 45053
been subjected to a desk review under division (A) of section 45054
5111.27 of the Revised Code and preliminarily determined to be 45055
allowable costs. 45056

~~(G)~~(H) "Direct care costs" means all of the following: 45057

(1)(a) Costs for registered nurses, licensed practical 45058
nurses, and nurse aides employed by the facility; 45059

(b) Costs for direct care staff, administrative nursing 45060
staff, medical directors, ~~social services staff, activities staff,~~ 45061
~~psychologists and psychology assistants, social workers and~~ 45062
~~counselors,~~ habilitation staff, qualified mental retardation 45063
professionals, program directors, respiratory therapists, 45064
habilitation supervisors, and except as provided in division 45065
(G)(2) of this section, other persons holding degrees qualifying 45066
them to provide therapy; 45067

(c) Costs of purchased nursing services; 45068

(d) Costs of quality assurance; 45069

(e) Costs of training and staff development, employee 45070
benefits, payroll taxes, and workers' compensation premiums or 45071
costs for self-insurance claims and related costs as specified in 45072
rules adopted by the director of job and family services in 45073
accordance with Chapter 119. of the Revised Code, for personnel 45074
listed in divisions ~~(G)~~(H)(1)(a), (b), and (d) of this section; 45075

(f) Costs of consulting and management fees related to direct care;	45076 45077
(g) Allocated direct care home office costs.	45078
(2) <u>In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include medical supplies, emergency oxygen, habilitation supplies, and universal precautions supplies.</u>	45079 45080 45081 45082
(3) In addition to the costs specified in division (G) (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	45083 45084 45085
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists, <u>social services staff, activities staff, psychologists and psychology assistants, and social workers and counselors;</u>	45086 45087 45088 45089 45090
(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 rules adopted by the director of job and family services in accordance with Chapter 119. <u>under section 5111.02</u> of the Revised Code, for personnel listed in division (G) (2)(H)(3)(a) of this section.	45091 45092 45093 45094 45095 45096 45097
(3) (4) Costs of other direct-care resources that are specified as direct care costs in rules adopted by the director of job and family services in accordance with Chapter 119. <u>under section 5111.02</u> of the Revised Code.	45098 45099 45100 45101
(H) (I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.	45102 45103
(I) (J) "Indirect care costs" means all reasonable costs <u>incurred by an intermediate care facility for the mentally</u>	45104 45105

retarded other than direct care costs, other protected costs, or 45106
capital costs. "Indirect care costs" includes but is not limited 45107
to costs of habilitation supplies, pharmacy consultants, medical 45108
and habilitation records, program supplies, incontinence supplies, 45109
food, enterals, dietary supplies and personnel, laundry, 45110
housekeeping, security, administration, liability insurance, 45111
bookkeeping, purchasing department, human resources, 45112
communications, travel, dues, license fees, subscriptions, home 45113
office costs not otherwise allocated, legal services, accounting 45114
services, minor equipment, maintenance and repairs, help-wanted 45115
advertising, informational advertising, start-up costs, 45116
organizational expenses, other interest, property insurance, 45117
employee training and staff development, employee benefits, 45118
payroll taxes, and workers' compensation premiums or costs for 45119
self-insurance claims and related costs as specified in rules 45120
~~adopted by the director of job and family services in accordance~~ 45121
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, for 45122
personnel listed in this division. Notwithstanding division 45123
~~(B)~~(C)(1) of this section, "indirect care costs" also means the 45124
cost of equipment, including vehicles, acquired by operating lease 45125
executed before December 1, 1992, if the costs are reported as 45126
administrative and general costs on the facility's cost report for 45127
the cost reporting period ending December 31, 1992. 45128

~~(J)~~(K) "Inpatient days" means all days during which a 45129
resident, regardless of payment source, occupies a bed in a 45130
nursing facility or intermediate care facility for the mentally 45131
retarded that is included in the facility's certified capacity 45132
under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 45133
42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days 45134
for which payment is made under section 5111.33 of the Revised 45135
Code are considered inpatient days proportionate to the percentage 45136
of the facility's per resident per day rate paid for those days. 45137

~~(K)~~(L) "Intermediate care facility for the mentally retarded" 45138
means an intermediate care facility for the mentally retarded 45139
certified as in compliance with applicable standards for the 45140
~~medical assistance~~ medicaid program by the director of health in 45141
accordance with Title XIX of the "Social Security Act." 45142

~~(L)~~(M) "Maintenance and repair expenses" means, except as 45143
provided in division ~~(X)~~(Y)(2) of this section, expenditures that 45144
are necessary and proper to maintain an asset in a normally 45145
efficient working condition and that do not extend the useful life 45146
of the asset two years or more. "Maintenance and repair expenses" 45147
includes but is not limited to the cost of ordinary repairs such 45148
as painting and wallpapering. 45149

~~(M)~~(N) "Nursing facility" means a facility, or a distinct 45150
part of a facility, that is certified as a nursing facility by the 45151
director of health in accordance with Title XIX of the "Social 45152
Security Act," and is not an intermediate care facility for the 45153
mentally retarded. "Nursing facility" includes a facility, or a 45154
distinct part of a facility, that is certified as a nursing 45155
facility by the director of health in accordance with Title XIX of 45156
the "Social Security Act," and is certified as a skilled nursing 45157
facility by the director in accordance with Title XVIII of the 45158
"Social Security Act." 45159

~~(N)~~(O) "Operator" means the person or government entity 45160
responsible for the daily operating and management decisions for a 45161
nursing facility or intermediate care facility for the mentally 45162
retarded. 45163

(P) "Other protected costs" means costs incurred by an 45164
intermediate care facility for the mentally retarded for medical 45165
supplies; real estate, franchise, and property taxes; natural gas, 45166
fuel oil, water, electricity, sewage, and refuse and hazardous 45167
medical waste collection; allocated other protected home office 45168

costs; and any additional costs defined as other protected costs 45169
in rules adopted ~~by the director of job and family services in~~ 45170
~~accordance with Chapter 119. under section 5111.02~~ of the Revised 45171
Code. 45172

~~(O)~~(Q) "Owner" means any person or government entity that has 45173
at least five per cent ownership or interest, either directly, 45174
indirectly, or in any combination, in a nursing facility or 45175
intermediate care facility for the mentally retarded. 45176

~~(P)~~(R) "Patient" includes "resident." 45177

~~(Q)~~(S) Except as provided in divisions ~~(Q)~~(S)(1) and (2) of 45178
this section, "per diem" means a nursing facility's or 45179
intermediate care facility for the mentally retarded's actual, 45180
allowable costs in a given cost center in a cost reporting period, 45181
divided by the facility's inpatient days for that cost reporting 45182
period. 45183

(1) When calculating indirect care costs for the purpose of 45184
establishing rates under section ~~5111.24 or~~ 5111.241 of the 45185
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 45186
facility for the mentally retarded's actual, allowable indirect 45187
care costs in a cost reporting period divided by the greater of 45188
the facility's inpatient days for that period or the number of 45189
inpatient days the facility would have had during that period if 45190
its occupancy rate had been eighty-five per cent. 45191

(2) When calculating capital costs for the purpose of 45192
establishing rates under section 5111.25 or 5111.251 of the 45193
Revised Code, "per diem" means a facility's actual, allowable 45194
capital costs in a cost reporting period divided by the greater of 45195
the facility's inpatient days for that period or the number of 45196
inpatient days the facility would have had during that period if 45197
its occupancy rate had been ninety-five per cent. For the purpose 45198
of determining a nursing facility's occupancy rate under division 45199

(S)(2) of this section, the department of job and family services shall include any beds that the nursing facility removes from its bed capacity under its Title XIX certification after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

~~(R)~~(T) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under a provider agreement.

~~(S)~~(U) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the ~~medical assistance~~ medicaid program.

~~(T)~~ "~~Purchased nursing services~~" ~~means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.~~

~~(U)~~(V) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

~~(V)~~(W) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals

possess significant ownership or equity in both the provider and 45231
the other organization. Significant ownership or equity exists 45232
when an individual or individuals possess five per cent ownership 45233
or equity in both the provider and a supplier. Significant 45234
ownership or equity is presumed to exist when an individual or 45235
individuals possess ten per cent ownership or equity in both the 45236
provider and another organization from which the provider 45237
purchases or leases real property. 45238

(3) Control exists when an individual or organization has the 45239
power, directly or indirectly, to significantly influence or 45240
direct the actions or policies of an organization. 45241

(4) An individual or organization that supplies goods or 45242
services to a provider shall not be considered a related party if 45243
all of the following conditions are met: 45244

(a) The supplier is a separate bona fide organization. 45245

(b) A substantial part of the supplier's business activity of 45246
the type carried on with the provider is transacted with others 45247
than the provider and there is an open, competitive market for the 45248
types of goods or services the supplier furnishes. 45249

(c) The types of goods or services are commonly obtained by 45250
other nursing facilities or intermediate care facilities for the 45251
mentally retarded from outside organizations and are not a basic 45252
element of patient care ordinarily furnished directly to patients 45253
by the facilities. 45254

(d) The charge to the provider is in line with the charge for 45255
the goods or services in the open market and no more than the 45256
charge made under comparable circumstances to others by the 45257
supplier. 45258

~~(W)~~(X) "Relative of owner" means an individual who is related 45259
to an owner of a nursing facility or intermediate care facility 45260

for the mentally retarded by one of the following relationships:	45261
(1) Spouse;	45262
(2) Natural parent, child, or sibling;	45263
(3) Adopted parent, child, or sibling;	45264
(4) Step parent <u>Stepparent</u> , step-child <u>stepchild</u> ,	45265
step-brother <u>stepbrother</u> , or step-sister <u>stepsister</u> ;	45266
(5) Father-in-law, mother-in-law, son-in-law,	45267
daughter-in-law, brother-in-law, or sister-in-law;	45268
(6) Grandparent or grandchild;	45269
(7) Foster caregiver, foster child, foster brother, or foster	45270
sister.	45271
(X) <u>(Y)</u> "Renovation" and "extensive renovation" mean:	45272
(1) Any betterment, improvement, or restoration of a nursing	45273
facility or an intermediate care facility for the mentally	45274
retarded started before July 1, 1993, that meets the definition of	45275
a renovation or extensive renovation established in rules adopted	45276
by the director of job and family services in effect on December	45277
22, 1992.	45278
(2) In the case of betterments, improvements, and	45279
restorations of nursing facilities and intermediate care	45280
facilities for the mentally retarded started on or after July 1,	45281
1993:	45282
(a) "Renovation" means the betterment, improvement, or	45283
restoration of a nursing facility or an intermediate care facility	45284
for the mentally retarded beyond its current functional capacity	45285
through a structural change that costs at least five hundred	45286
dollars per bed. A renovation may include betterment, improvement,	45287
restoration, or replacement of assets that are affixed to the	45288
building and have a useful life of at least five years. A	45289
renovation may include costs that otherwise would be considered	45290

maintenance and repair expenses if they are an integral part of 45291
the structural change that makes up the renovation project. 45292
"Renovation" does not mean construction of additional space for 45293
beds that will be added to a facility's licensed or certified 45294
capacity. 45295

(b) "Extensive renovation" means a renovation that costs more 45296
than sixty-five per cent and no more than eighty-five per cent of 45297
the cost of constructing a new bed and that extends the useful 45298
life of the assets for at least ten years. 45299

For the purposes of division ~~(X)~~(Y)(2) of this section, the 45300
cost of constructing a new bed shall be considered to be forty 45301
thousand dollars, adjusted for the estimated rate of inflation 45302
from January 1, 1993, to the end of the calendar year during which 45303
the renovation is completed, using the consumer price index for 45304
shelter costs for all urban consumers for the north central 45305
region, as published by the United States bureau of labor 45306
statistics. 45307

The department of job and family services may treat a 45308
renovation that costs more than eighty-five per cent of the cost 45309
of constructing new beds as an extensive renovation if the 45310
department determines that the renovation is more prudent than 45311
construction of new beds. 45312

Sec. 5111.204. (A) As used in this section ~~and in section~~ 45313
~~5111.205 of the Revised Code~~, "representative" means a person 45314
acting on behalf of an applicant for or recipient of ~~medical~~ 45315
~~assistance~~ medicaid. A representative may be a family member, 45316
attorney, hospital social worker, or any other person chosen to 45317
act on behalf of an applicant or recipient. 45318

(B) The department of job and family services may require ~~an~~ 45319
each applicant for or recipient of ~~medical assistance~~ medicaid who 45320
applies or intends to apply for admission to a nursing facility or 45321

resides in a nursing facility to undergo an assessment to 45322
determine whether the applicant or recipient needs the level of 45323
care provided by a nursing facility. ~~To~~ The assessment may be 45324
performed concurrently with a long-term care consultation 45325
performed under section 173.42 of the Revised Code. 45326

To the maximum extent possible, the assessment shall be based 45327
on information from the resident assessment instrument specified 45328
in rules adopted by the director of job and family services under 45329
division (A) of section ~~5111.231~~ 5111.232 of the Revised Code. The 45330
assessment shall also be based on criteria and procedures 45331
established in rules adopted under division ~~(H)~~(F) of this section 45332
and information provided by the person being assessed or the 45333
person's representative. ~~The~~ 45334

The department of job and family services, or if the 45335
assessment is performed by ~~another an~~ agency ~~designated~~ under 45336
contract with the department pursuant to division (G) of this 45337
section 5101.754 of the Revised Code, the agency, shall, not later 45338
than the time the ~~assessment~~ level of care determination based on 45339
the assessment is required to be ~~performed~~ provided under division 45340
(C) of this section, give written notice of its conclusions and 45341
the basis for them to the person assessed and, if the department 45342
of job and family services or ~~designated entity~~ agency under 45343
contract with the department has been informed that the person has 45344
a representative, to the representative. 45345

(C) The department of job and family services or ~~designated~~ 45346
agency under contract with the department, whichever performs the 45347
assessment, shall ~~perform a complete assessment, or, if~~ 45348
~~circumstances provided by rules adopted under division (H) of this~~ 45349
~~section exist, a partial assessment,~~ provide a level of care 45350
determination based on the assessment as follows: 45351

(1) In the case of a person applying or intending to apply 45352
for admission to a nursing facility while hospitalized, not later 45353

than one of the following: 45354

(a) One working day after the person or the person's 45355
representative submits ~~an~~ the application ~~for admission to the~~ 45356
~~nursing facility~~ or notifies the department of the person's 45357
intention to apply and submits all information required for 45358
providing the level of care determination, as specified in rules 45359
adopted under division (F)(2) of this section; 45360

(b) A later date requested by the person or the person's 45361
representative. 45362

(2) In the case of ~~an emergency as determined in accordance~~ 45363
~~with rules adopted under division (H) of this section, not later~~ 45364
~~than one calendar day after the person or the person's~~ 45365
~~representative submits the application or notifies the department~~ 45366
~~of the person's intention to apply.~~ 45367

~~(3) In all other cases a person applying or intending to~~ 45368
~~apply for admission to a nursing facility who is not hospitalized,~~ 45369
not later than one of the following: 45370

(a) Five calendar days after the person or the person's 45371
representative submits the application or notifies the department 45372
of the person's intention to apply and submits all information 45373
required for providing the level of care determination, as 45374
specified in rules adopted under division (F)(2) of this section; 45375

(b) A later date requested by the person or the person's 45376
representative. 45377

(3) In the case of a person who resides in a nursing 45378
facility, not later than one of the following: 45379

(a) Five calendar days after the person or the person's 45380
representative submits an application for medical assistance and 45381
submits all information required for providing the level of care 45382
determination, as specified in rules adopted under division (F)(2) 45383

of this section; 45384

(b) A later date requested by the person or the person's representative. 45385
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(4) In the case of an emergency, as specified in rules adopted under division (F)(4) of this section, within the number of days specified in the rules. 45387
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~~(D) If the department of job and family services or designated agency conducts a partial assessment under division (C) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the department or designated agency determines the person should be exempt from the assessment.~~ 45390
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~~(E) A person is not required to be assessed under this section if the circumstances specified by rule adopted under division (H) of this section exist or the department of job and family services or designated agency determines after a partial assessment that the person should be exempt from the assessment.~~ 45397
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~~(F)~~ A person assessed under this section or the person's representative may appeal request a state hearing to dispute the conclusions reached by the department of job and family services or ~~designated~~ agency under contract with the department on the basis of the assessment. The appeal request for a state hearing shall be made in accordance with section 5101.35 of the Revised Code. The department of job and family services or ~~designated~~ agency, ~~whichever performs the assessment,~~ under contract with the department shall provide to the person or the person's representative and the nursing facility written notice of the person's right to appeal request a state hearing. The notice shall include an explanation of the procedure for ~~filing an appeal~~ requesting a state hearing. If a state hearing is requested, the 45402
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state shall be represented in the hearing by the department of job and family services or the agency under contract with the department, whichever performed the assessment. 45415
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~~(G)~~(E) A nursing facility that admits or retains a person determined pursuant to an assessment required under ~~division (B) or (C)~~ of this section not to need the level of care provided by the nursing facility shall not be reimbursed under the ~~medical assistance~~ medicaid program for the person's care. 45418
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~~(H)~~(F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section. The rules shall include all of the following: 45423
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(1) Criteria and procedures to be used in determining whether admission to a nursing facility or continued stay in a nursing facility is appropriate for the person being assessed. ~~The criteria shall include consideration of whether the person is in need of any of the following:~~ 45427
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~~(a) Nursing or rehabilitation services;~~ 45432

~~(b) Assistance with two or more of the activities of daily living;~~ 45433
45434

~~(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment.~~ 45435
45436

(2) Information the person being assessed or the person's representative must provide to the department or ~~designated~~ agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment; 45437
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~~(3) Circumstances under which the department of job and family services or designated agency may perform a partial assessment under division (C) of this section;~~ 45442
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45444

~~(4)~~ Circumstances under which a person is not required to be assessed; 45445
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(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency. 45447
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(G) Pursuant to section 5111.91 of the Revised Code, the department of job and family services may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments. 45451
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Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, ~~5111.02~~ 5111.021, and 5111.211 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to ~~5111.32~~ 5111.33 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. 45457
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In order to be eligible for ~~medical assistance~~ medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following: 45464
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(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code; 45467
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(2) Apply for and maintain a valid license to operate if so required by law; 45469
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(3) Comply with all applicable state and federal laws and rules. 45471
45472

(B) ~~A~~ The operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid 45473
45474

program shall qualify all of the facility's medicaid-certified 45475
beds in the medicare program established by Title XVIII of the 45476
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The 45477
director of job and family services may adopt rules ~~in accordance~~ 45478
~~with Chapter 119.~~ under section 5111.02 of the Revised Code to 45479
establish the time frame in which a nursing facility must comply 45480
with this requirement. 45481

Sec. 5111.22. A provider agreement between the department of 45482
job and family services and the operator of a nursing facility or 45483
intermediate care facility for the mentally retarded shall contain 45484
the following provisions: 45485

(A) The department agrees to make payments to the ~~nursing~~ 45486
~~facility or intermediate care facility for the mentally retarded~~ 45487
~~for patients eligible for services under the medical assistance~~ 45488
~~program operator,~~ as provided in sections 5111.20 to ~~5111.32~~ 45489
5111.33 of the Revised Code, for medicaid-covered services the 45490
facility provides to a resident of the facility who is a medicaid 45491
recipient. No payment shall be made for the day a medicaid 45492
recipient is discharged from the facility. 45493

(B) The ~~provider~~ operator agrees to: 45494

(1) Maintain eligibility as provided in section 5111.21 of 45495
the Revised Code; 45496

(2) Keep records relating to a cost reporting period for the 45497
greater of seven years after the cost report is filed or, if the 45498
department issues an audit report in accordance with division (B) 45499
of section 5111.27 of the Revised Code, six years after all appeal 45500
rights relating to the audit report are exhausted; 45501

(3) File reports as required by the department; 45502

(4) Open all records relating to the costs of its services 45503
for inspection and audit by the department; 45504

(5) Open its premises for inspection by the department, the 45505
department of health, and any other state or local authority 45506
having authority to inspect; 45507

(6) Supply to the department such information as it requires 45508
concerning the facility's services to ~~patients~~ residents who are 45509
or are eligible to be medicaid recipients; 45510

(7) Comply with section 5111.31 of the Revised Code. 45511

The provider agreement may contain other provisions that are 45512
consistent with law and considered necessary by the department. 45513

A provider agreement shall be effective for no longer than 45514
twelve months, except that if federal statute or regulations 45515
authorize a longer term, it may be effective for a longer term so 45516
authorized. A provider agreement may be renewed only if the 45517
facility is certified by the department of health for 45518
participation in the medicaid program. 45519

The department of job and family services, in accordance with 45520
rules adopted ~~by the director pursuant to Chapter 119.~~ under 45521
section 5111.02 of the Revised Code, may elect not to enter into, 45522
not to renew, or to terminate a provider agreement when the 45523
department determines that such an agreement would not be in the 45524
best interests of ~~the~~ medicaid recipients or of the state. 45525

Sec. 5111.221. The department of job and family services 45526
shall make its best efforts each year to calculate rates under 45527
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 45528
time to use them to make the payments due to ~~nursing facilities~~ 45529
~~and intermediate care facilities for the mentally retarded~~ 45530
providers by the fifteenth day of August. If the department is 45531
unable to calculate the rates so that they can be paid by that 45532
date, the department shall pay each ~~facility~~ provider the rate 45533
calculated for ~~it~~ the provider's nursing facilities and 45534

intermediate care facilities for the mentally retarded under those 45535
sections at the end of the previous fiscal year. If the department 45536
also is unable to calculate the rates to make the payments due by 45537
the fifteenth day of September and the fifteenth day of October, 45538
the department shall pay the previous fiscal year's rate to make 45539
those payments. The department may increase by five per cent the 45540
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 45541
this section at the request of the ~~facility~~ provider. The 45542
department shall use rates calculated for the current fiscal year 45543
to make the payments due by the fifteenth day of November. 45544

If the rate paid to a provider for a facility pursuant to 45545
this section is lower than the rate calculated for ~~it~~ the facility 45546
for the current fiscal year, the department shall pay the ~~facility~~ 45547
provider the difference between the two rates for the number of 45548
days for which the ~~facility~~ provider was paid for the facility 45549
pursuant to this section. If the rate paid ~~to~~ for a facility 45550
pursuant to this section is higher than the rate calculated for it 45551
for the current fiscal year, the ~~facility~~ provider shall refund to 45552
the department the difference between the two rates for the number 45553
of days for which the ~~facility~~ provider was paid for the facility 45554
pursuant to this section. 45555

Sec. 5111.222. The operator of a nursing facility or 45556
intermediate care facility for the mentally retarded may enter 45557
into provider agreements for more than one nursing facility or 45558
intermediate care facility for the mentally retarded. 45559

Sec. 5111.23. (A) The department of job and family services 45560
shall pay a provider for each of the provider's eligible nursing 45561
~~facility and~~ intermediate care ~~facility~~ facilities for the 45562
mentally retarded a per resident per day rate for direct care 45563
costs established prospectively for each facility. The department 45564
shall establish each facility's rate for direct care costs 45565

quarterly. 45566

(B) Each facility's rate for direct care costs shall be based 45567
on the facility's cost per case-mix unit, subject to the maximum 45568
costs per case-mix unit established under division (B)(2) of this 45569
section, from the calendar year preceding the fiscal year in which 45570
the rate is paid. To determine the rate, the department shall do 45571
all of the following: 45572

(1) Determine each facility's cost per case-mix unit for the 45573
calendar year preceding the fiscal year in which the rate will be 45574
paid by dividing the facility's desk-reviewed, actual, allowable, 45575
per diem direct care costs for that year by its average case-mix 45576
score determined under section ~~5111.231~~ 5111.232 of the Revised 45577
Code for the same calendar year. 45578

~~(2)(a) Set the maximum cost per case-mix unit for each peer 45579
group of nursing facilities specified in rules adopted under 45580
division (E) of this section at a percentage above the cost per 45581
case-mix unit of the facility in the group that has the group's 45582
median medicaid inpatient day for the calendar year preceding the 45583
fiscal year in which the rate will be paid, as calculated under 45584
division (B)(1) of this section, that is no less than the 45585
percentage calculated under division (D)(1) of this section. 45586~~

~~(b)~~ Set the maximum cost per case-mix unit for each peer 45587
group of intermediate care facilities for the mentally retarded 45588
with more than eight beds specified in rules adopted under 45589
division (E) of this section at a percentage above the cost per 45590
case-mix unit of the facility in the group that has the group's 45591
median medicaid inpatient day for the calendar year preceding the 45592
fiscal year in which the rate will be paid, as calculated under 45593
division (B)(1) of this section, that is no less than the 45594
percentage calculated under division (D)(2) of this section. 45595

~~(e)~~(b) Set the maximum cost per case-mix unit for each peer 45596

group of intermediate care facilities for the mentally retarded 45597
with eight or fewer beds specified in rules adopted under division 45598
(E) of this section at a percentage above the cost per case-mix 45599
unit of the facility in the group that has the group's median 45600
medicaid inpatient day for the calendar year preceding the fiscal 45601
year in which the rate will be paid, as calculated under division 45602
(B)(1) of this section, that is no less than the percentage 45603
calculated under division (D)(3) of this section. 45604

~~(d)~~(c) In calculating the maximum cost per case-mix unit 45605
under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer 45606
group, the department shall exclude from its calculations the cost 45607
per case-mix unit of any facility in the group that participated 45608
in the ~~medical-assistance~~ medicaid program under the same operator 45609
for less than twelve months during the calendar year preceding the 45610
fiscal year in which the rate will be paid. 45611

(3) Estimate the rate of inflation for the eighteen-month 45612
period beginning on the first day of July of the calendar year 45613
preceding the fiscal year in which the rate will be paid and 45614
ending on the thirty-first day of December of the fiscal year in 45615
which the rate will be paid, using the employment cost index for 45616
total compensation, health services component, published by the 45617
United States bureau of labor statistics. If the estimated 45618
inflation rate for the eighteen-month period is different from the 45619
actual inflation rate for that period, as measured using the same 45620
index, the difference shall be added to or subtracted from the 45621
inflation rate estimated under division (B)(3) of this section for 45622
the following fiscal year. 45623

(4) The department shall not recalculate a maximum cost per 45624
case-mix unit under division (B)(2) of this section or a 45625
percentage under division (D) of this section based on additional 45626
information that it receives after the maximum costs per case-mix 45627
unit or percentages are set. The department shall recalculate a 45628

maximum cost per case-mix units or percentage only if it made an 45629
error in computing the maximum cost per case-mix unit or 45630
percentage based on information available at the time of the 45631
original calculation. 45632

(C) Each facility's rate for direct care costs shall be 45633
determined as follows for each calendar quarter within a fiscal 45634
year: 45635

(1) Multiply the lesser of the following by the facility's 45636
average case-mix score determined under section ~~5111.231~~ 5111.232 45637
of the Revised Code for the calendar quarter that preceded the 45638
immediately preceding calendar quarter: 45639

(a) The facility's cost per case-mix unit for the calendar 45640
year preceding the fiscal year in which the rate will be paid, as 45641
determined under division (B)(1) of this section; 45642

(b) The maximum cost per case-mix unit established for the 45643
fiscal year in which the rate will be paid for the facility's peer 45644
group under division (B)(2) of this section; 45645

(2) Adjust the product determined under division (C)(1) of 45646
this section by the inflation rate estimated under division (B)(3) 45647
of this section. 45648

~~(D)(1) The department shall calculate the percentage above 45649
the median cost per case mix unit determined under division (B)(1) 45650
of this section for the facility that has the median medicaid 45651
inpatient day for calendar year 1992 for all nursing facilities 45652
that would result in payment of all desk reviewed, actual, 45653
allowable direct care costs for eighty five per cent of the 45654
medicaid inpatient days for nursing facilities for calendar year 45655
1992. 45656~~

~~(2)~~ The department shall calculate the percentage above the 45657
median cost per case-mix unit determined under division (B)(1) of 45658

this section for the facility that has the median medicaid 45659
inpatient day for calendar year 1992 for all intermediate care 45660
facilities for the mentally retarded with more than eight beds 45661
that would result in payment of all desk-reviewed, actual, 45662
allowable direct care costs for eighty and one-half per cent of 45663
the medicaid inpatient days for such facilities for calendar year 45664
1992. 45665

~~+3~~(2) The department shall calculate the percentage above 45666
the median cost per case-mix unit determined under division (B)(1) 45667
of this section for the facility that has the median medicaid 45668
inpatient day for calendar year 1992 for all intermediate care 45669
facilities for the mentally retarded with eight or fewer beds that 45670
would result in payment of all desk-reviewed, actual, allowable 45671
direct care costs for eighty and one-half per cent of the medicaid 45672
inpatient days for such facilities for calendar year 1992. 45673

(E) The director of job and family services shall adopt rules 45674
~~in accordance with Chapter 119.~~ under section 5111.02 of the 45675
Revised Code that specify peer groups of ~~nursing facilities,~~ 45676
intermediate care facilities for the mentally retarded with more 45677
than eight beds, and intermediate care facilities for the mentally 45678
retarded with eight or fewer beds, based on findings of 45679
significant per diem direct care cost differences due to geography 45680
and facility bed-size. The rules also may specify peer groups 45681
based on findings of significant per diem direct care cost 45682
differences due to other factors which may include, ~~in the case of~~ 45683
~~intermediate care facilities for the mentally retarded,~~ case-mix. 45684

(F) The department, in accordance with division (C) of 45685
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 45686
under division (D) of that section, may assign case-mix scores or 45687
costs per case-mix unit if a ~~facility~~ provider fails to submit 45688
assessment information necessary to calculate ~~its~~ an intermediate 45689
care facility for the mentally retarded's case-mix score in 45690

accordance with that section. 45691

Sec. 5111.231. (A) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly. 45692
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(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following: 45697
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(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year. 45703
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(2)(a) Set the maximum cost per case-mix unit for each peer group of nursing facilities specified in division (D) of this section at one hundred sixteen per cent above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section. 45709
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(b) In calculating the maximum cost per case-mix unit under division (B)(2)(a) of this section for each peer group, the department shall exclude from its calculations the cost per case-mix unit of either of the following: 45716
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(i) Any facility in the group that participated in the 45720

medicaid program under the same operator for less than twelve 45721
months during the calendar year preceding the fiscal year in which 45722
the rate will be paid; 45723

(ii) Any facility in the group that has a cost per case-mix 45724
unit that is more than one standard deviation greater or less than 45725
the mean cost per case-mix unit for all nursing facilities in the 45726
group for the calendar year preceding the fiscal year in which the 45727
rate will be paid. 45728

(3) Estimate the rate of inflation for the eighteen-month 45729
period beginning on the first day of July of the calendar year 45730
preceding the fiscal year in which the rate will be paid and 45731
ending on the thirty-first day of December of the fiscal year in 45732
which the rate will be paid, using the employment cost index for 45733
total compensation, health services component, published by the 45734
United States bureau of labor statistics. If the estimated 45735
inflation rate for the eighteen-month period is different from the 45736
actual inflation rate for that period, as measured using the same 45737
index, the difference shall be added to or subtracted from the 45738
inflation rate estimated under division (B)(3) of this section for 45739
the following fiscal year. 45740

(4) The department shall not recalculate a maximum cost per 45741
case-mix unit under division (B)(2) of this section based on 45742
additional information that it receives after the maximum costs 45743
per case-mix unit are set. The department shall recalculate a 45744
maximum cost per case-mix units only if it made an error in 45745
computing the maximum cost per case-mix unit based on information 45746
available at the time of the original calculation. 45747

(C) Each facility's rate for direct care costs shall be 45748
determined as follows for each calendar quarter within a fiscal 45749
year: 45750

(1) Multiply the lesser of the following by the facility's 45751

average case-mix score determined under section 5111.232 of the 45752
Revised Code for the calendar quarter that preceded the 45753
immediately preceding calendar quarter: 45754

(a) The facility's cost per case-mix unit for the calendar 45755
year preceding the fiscal year in which the rate will be paid, as 45756
determined under division (B)(1) of this section; 45757

(b) The maximum cost per case-mix unit established for the 45758
fiscal year in which the rate will be paid for the facility's peer 45759
group under division (B)(2) of this section; 45760

(2) Adjust the product determined under division (C)(1) of 45761
this section by the inflation rate estimated under division (B)(3) 45762
of this section. 45763

(D)(1) The director of job and family services shall use peer 45764
groups of nursing facilities for the purpose of this section that 45765
are the same as the peer groups specified in rules that were 45766
authorized by section 5111.23 of the Revised Code as that section 45767
existed on the day before the effective date of this section and 45768
were in effect on January 1, 2004, except that nursing facilities 45769
located in Ottawa, Erie, Morrow, Union, or Preble counties shall 45770
be added to the metropolitan statistical area peer group specified 45771
in those rules. 45772

(E) The department, in accordance with division (C) of 45773
section 5111.232 of the Revised Code and rules adopted under 45774
division (D) of that section, may assign case-mix scores or costs 45775
per case-mix unit if a provider fails to submit assessment 45776
information necessary to calculate a nursing facility's case-mix 45777
score in accordance with that section. 45778

Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and 45779
family services shall determine case-mix scores for nursing 45780
facilities using data for each resident, regardless of payment 45781

source, from a resident assessment instrument specified in rules 45782
adopted ~~in accordance with Chapter 119. under section 5111.02~~ of 45783
the Revised Code pursuant to section 1919(e)(5) of the "Social 45784
Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as 45785
amended, and the case-mix values established by the United States 45786
department of health and human services. Except as modified in 45787
rules ~~adopted under~~ authorized by division (A)(1)(c) of this 45788
section, the department also shall use the grouper methodology 45789
used on June 30, 1999, by the United States department of health 45790
and human services for prospective payment of skilled nursing 45791
facilities under the medicare program established by Title XVIII 45792
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 45793
301, as amended. The director of job and family services may adopt 45794
rules ~~in accordance with Chapter 119. under section 5111.02~~ of the 45795
Revised Code that do any of the following: 45796

(a) Adjust the case-mix values to reflect changes in relative 45797
wage differentials that are specific to this state; 45798

(b) Express all of the case-mix values in numeric terms that 45799
are different from the terms specified by the United States 45800
department of health and human services but that do not alter the 45801
relationship of the case-mix values to one another; 45802

(c) Modify the grouper methodology as follows: 45803

(i) Establish a different hierarchy for assigning residents 45804
to case-mix categories under the methodology; 45805

(ii) Prohibit the use of the index maximizer element of the 45806
methodology; 45807

(iii) Incorporate changes to the methodology the United 45808
States department of health and human services makes after June 45809
30, 1999; 45810

~~(iv) Make other changes the nursing facility reimbursement 45811
study council established by section 5111.34 of the Revised Code 45812~~

approves. 45813

(2) The department shall determine case-mix scores for 45814
intermediate care facilities for the mentally retarded using data 45815
for each resident, regardless of payment source, from a resident 45816
assessment instrument and grouper methodology prescribed in rules 45817
adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of 45818
the Revised Code and expressed in case-mix values established by 45819
the department in those rules. 45820

(B) Not later than fifteen days after the end of each 45821
calendar quarter, each ~~nursing facility and intermediate care~~ 45822
~~facility for the mentally retarded~~ provider shall submit to the 45823
department the complete assessment data, from the instrument 45824
specified in rules ~~adopted under~~ authorized by division (A) of 45825
this section, for each resident of each of the provider's 45826
facilities, regardless of payment source, who was in the facility 45827
or on hospital or therapeutic leave from the facility on the last 45828
day of the quarter. 45829

Except as provided in division (C) of this section, the 45830
department, after the end of each calendar year and pursuant to 45831
procedures specified in rules adopted ~~in accordance with Chapter~~ 45832
~~119.~~ under section 5111.02 of the Revised Code, shall calculate an 45833
annual average case-mix score for each nursing facility and 45834
intermediate care facility for the mentally retarded using the 45835
facility's quarterly case-mix scores for that calendar year. 45836

(C)(1) If a ~~facility~~ provider does not timely submit 45837
information for a calendar quarter necessary to calculate ~~its~~ a 45838
facility's case-mix score, or submits incomplete or inaccurate 45839
information for a calendar quarter, the department may assign the 45840
facility a quarterly average case-mix score that is five per cent 45841
less than the facility's quarterly average case-mix score for the 45842
preceding calendar quarter. If the facility was subject to an 45843

exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (C)(1) of this section, instead of a quarterly average case-mix score calculated based on the ~~facility's~~ provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules ~~adopted under~~ authorized by division (D) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.

Before taking action under division (C)(1) of this section, the department shall permit the ~~facility~~ provider a reasonable period of time, specified in rules ~~adopted under~~ authorized by division (D) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the ~~facility~~ provider fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the ~~facility~~ provider fails to submit corrected information prior to the earlier of the

eighty-first day after the end of the calendar quarter to which 45876
the information pertains or the deadline for submission of such 45877
corrections established by regulations adopted by the United 45878
States department of health and human services under Titles XVIII 45879
and XIX of the Social Security Act. 45880

(2) If a ~~facility~~ provider is paid a rate for a facility 45881
calculated using a quarterly average case-mix score assigned under 45882
division (C)(1) of this section for more than six months in a 45883
calendar year, the department may assign the facility a cost per 45884
case-mix unit that is five per cent less than the facility's 45885
actual or assigned cost per case-mix unit for the preceding 45886
calendar year. The department may use the assigned cost per 45887
case-mix unit, instead of calculating the facility's actual cost 45888
per case-mix unit in accordance with section 5111.23 or 5111.231 45889
of the Revised Code, to establish the facility's rate for direct 45890
care costs for the following fiscal year. 45891

(3) The department shall take action under division (C)(1) or 45892
(2) of this section only in accordance with rules ~~adopted under~~ 45893
authorized by division (D) of this section. The department shall 45894
not take an action that affects rates for prior payment periods 45895
except in accordance with sections 5111.27 and 5111.28 of the 45896
Revised Code. 45897

(D) The director may adopt rules ~~in accordance with Chapter~~ 45898
~~119-~~ under section 5111.02 of the Revised Code that do any of the 45899
following: 45900

(1) Specify the medium or media through which the completed 45901
assessment information shall be submitted; 45902

(2) Establish procedures under which the department will 45903
review assessment information for accuracy and notify the ~~facility~~ 45904
provider of any information that requires correction; 45905

(3) Establish procedures for ~~facilities~~ providers to correct 45906

assessment information. The procedures may prohibit the provider 45907
of an intermediate care facility for the mentally retarded from 45908
submitting corrected assessment information, for the purpose of 45909
calculating ~~its~~ the facility's annual average case-mix score, more 45910
than two calendar quarters after the end of the quarter to which 45911
the information pertains or, if the information pertains to the 45912
quarter ending the thirty-first day of December, after the 45913
thirty-first day of the following March. The procedures may limit 45914
the content of corrections by providers of nursing facilities in 45915
the manner required by regulations adopted by the United States 45916
department of health and human services under Titles XVIII and XIX 45917
of the Social Security Act and prohibit a provider of a nursing 45918
facility from submitting corrected assessment information, for the 45919
purpose of calculating ~~its~~ the facility's annual average case-mix 45920
score, more than the earlier of the following: 45921

(a) Two calendar quarters after the end of the quarter to 45922
which the information pertains or, if the information pertains to 45923
the quarter ending the thirty-first day of December, after the 45924
thirty-first day of the following March; 45925

(b) The deadline for submission of such corrections 45926
established by regulations adopted by the United States department 45927
of health and human services under Titles XVIII and XIX of the 45928
Social Security Act. 45929

(4) Specify when and how the department will assign case-mix 45930
scores or costs per case-mix unit under division (C) of this 45931
section if information necessary to calculate the facility's 45932
average annual or quarterly case-mix score is not provided or 45933
corrected in accordance with the procedures established by the 45934
rules. Notwithstanding any other provision of sections 5111.20 to 45935
~~5111.32~~ 5111.33 of the Revised Code, the rules also may provide 45936
for exclusion of case-mix scores assigned under division (C) of 45937
this section from calculation of the facility's annual average 45938

case-mix score and the maximum cost per case-mix unit for the 45939
facility's peer group. 45940

Sec. 5111.234. (A) As used in this section, "deficiency" and 45941
"standard survey" have the same meanings as in section 5111.35 of 45942
the Revised Code. 45943

(B) Each year, the department of job and family services 45944
shall pay each nursing facility placed in the first, second, and 45945
third quality tier groups established under division (C) of this 45946
section a quality incentive payment. Nursing facilities placed in 45947
the first group shall receive the highest payment. Nursing 45948
facilities placed in the second group shall receive the second 45949
highest payment. Nursing facilities placed in the third group 45950
shall receive the third highest payment. Nursing facilities placed 45951
in the fourth group shall receive no payment. The mean payment, 45952
weighted by medicaid days, shall be two per cent of the average 45953
rate for all nursing facilities calculated under sections 5111.20 45954
to 5111.33 of the Revised Code, excluding this section. Nursing 45955
facilities placed in the fourth group shall be included for the 45956
purpose of determining the mean payment. 45957

(C) Each year, the department shall establish four quality 45958
tier groups. Each group shall consist of one quarter of all 45959
nursing facilities participating in the medicaid program. The 45960
first group shall consist of the quarter of nursing facilities 45961
individually awarded the most number of points under division (D) 45962
of this section. The second group shall consist of the quarter of 45963
nursing facilities individually awarded the second most number of 45964
points under division (D) of this section. The third group shall 45965
consist of the quarter of nursing facilities individually awarded 45966
the third most number of points under division (D) of this 45967
section. The fourth group shall consist of the quarter of nursing 45968
facilities individually awarded the least number of points under 45969

<u>division (D) of this section.</u>	45970
<u>(D) Each year, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:</u>	45971
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	45973
<u>(1) The facility had no health deficiencies on the facility's most recent standard survey.</u>	45974
	45975
<u>(2) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.</u>	45976
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<u>(3) The facility's resident satisfaction is above the statewide average.</u>	45980
	45981
<u>(4) The facility's family satisfaction is above the statewide average.</u>	45982
	45983
<u>(5) The number of hours the facility employs nurses is above the statewide average.</u>	45984
	45985
<u>(6) The facility's employee retention rate is above the average for the facility's peer group specified in division (D) of section 5111.231 of the Revised Code.</u>	45986
	45987
	45988
<u>(7) The facility's occupancy rate is above the statewide average.</u>	45989
	45990
<u>(8) The facility's medicaid utilization rate is above the statewide average.</u>	45991
	45992
<u>(9) The facility's case-mix score is above the statewide average.</u>	45993
	45994
<u>(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. The rules shall include rules establishing the system for awarding points under division (D) of this section.</u>	45995
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Sec. 5111.235. The department of job and family services 45999
shall pay a provider for each of the provider's eligible nursing 46000
~~facility and~~ intermediate care ~~facility~~ facilities for the 46001
mentally retarded a per resident per day rate for other protected 46002
costs established prospectively each fiscal year for each 46003
facility. The rate for each facility shall be the facility's 46004
desk-reviewed, actual, allowable, per diem other protected costs 46005
from the calendar year preceding the fiscal year in which the rate 46006
will be paid, all adjusted, ~~except for franchise permit fees paid~~ 46007
~~under section 3721.53 of the Revised Code,~~ for the estimated 46008
inflation rate for the eighteen-month period beginning on the 46009
first day of July of the calendar year preceding the fiscal year 46010
in which the rate will be paid and ending on the thirty-first day 46011
of December of that fiscal year. The department shall estimate 46012
inflation using the consumer price index for all urban consumers 46013
for nonprescription drugs and medical supplies, as published by 46014
the United States bureau of labor statistics. If the estimated 46015
inflation rate for the eighteen-month period is different from the 46016
actual inflation rate for that period, the difference shall be 46017
added to or subtracted from the inflation rate estimated for the 46018
following year. 46019

Sec. 5111.24. (A) The department of job and family services 46020
shall pay a provider for each of the provider's eligible nursing 46021
~~facility~~ facilities a per resident per day rate for ~~indirect care~~ 46022
ancillary and support costs established prospectively each fiscal 46023
year for each ~~facility~~ peer group of nursing facilities specified 46024
in division (E) of this section. The rate shall be based on the 46025
prices for nursing facility's ancillary and support costs. The 46026
rate for each ~~nursing facility~~ peer group shall be the ~~sum of the~~ 46027
~~following, but shall not exceed the maximum rate established for~~ 46028
~~the facility's peer group under division (B) of this section:~~ 46029

~~(1) The facility's desk reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;~~ 46030
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~~(2) An efficiency incentive in the following amount:~~ 46034

~~(a) For fiscal years ending in even numbered calendar years, the difference between the maximum rate established for the facility's peer group under division (B) of this section and the median, actual, allowable, per diem indirect care costs for the facility's peer group;~~ 46035
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~~(b) For fiscal years ending in odd numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.~~ 46040
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~~(B) The maximum rate for indirect care costs for each peer group of nursing facilities specified in rules adopted under division (D) of this section shall be determined as follows:~~ 46043
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~~(1) For fiscal years that end in even numbered calendar years, the maximum rate for each peer group shall be the rate amount that is twelve and one-half eight per cent above the desk-reviewed, actual, allowable, per diem indirect care ancillary and support cost of the facility in the peer group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid 2005, adjusted annually by the inflation rate estimated under division ~~(C)(D)~~(1) of this section. In determining the ~~maximum~~ rate for each peer group, the department shall ~~exclude~~ do both of the following: 46046
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(1) Use the greater of each nursing facility's actual inpatient days for calendar year 2005 or the inpatient days the facility would have had for calendar year 2005 if its occupancy rate had been ninety per cent; 46057
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(2) Exclude from its calculations both of the following: 46061

(a) Facilities in the group that participated in the ~~medical~~ 46062
~~assistance~~ medicaid program under the same ~~operator~~ provider for 46063
less than twelve months in ~~the~~ calendar year ~~preceding the fiscal~~ 46064
~~year in which the rate will be paid 2005;~~ 46065

(b) Facilities in the group whose ~~indirect care~~ ancillary and 46066
support costs are more than ~~three~~ one standard ~~deviations~~ 46067
deviation from the mean desk-reviewed, actual, allowable, per diem 46068
~~indirect care~~ ancillary and support cost for all nursing 46069
facilities in the group for ~~the~~ calendar year ~~preceding the fiscal~~ 46070
~~year in which the rate will be paid 2005.~~ 46071

~~(2) For fiscal years that end in odd-numbered calendar (B)~~ 46072
Beginning in fiscal year 2010 and every three years thereafter, 46073
the maximum rate department shall recalculate the rate for 46074
ancillary and support costs for each peer group is the group's 46075
maximum rate for the previous fiscal year, adjusted for the 46076
inflation rate estimated under division (C)(2) of this section. 46077
The rate shall be calculated as under division (A) of this 46078
section, except that references to calendar year 2005 in that 46079
division shall be deemed to be references to the calendar year 46080
preceding the fiscal year for which the rate will be paid. 46081

~~(3)(C)~~ The department shall not recalculate a ~~maximum~~ rate 46082
for ~~indirect care~~ ancillary and support costs under division (A) 46083
or (B)(1) ~~or~~ (2) of this section based on additional information 46084
that it receives after the ~~maximum~~ rate is set. The department 46085
shall recalculate the ~~maximum~~ rate for ~~indirect care~~ ancillary and 46086
support costs only if it made an error in computing the ~~maximum~~ 46087
rate based on the information available at the time of the 46088
original calculation. 46089

~~(C)(1) When adjusting rates for inflation under divisions (A)~~ 46090
~~and (B)(1) of this section, the department shall estimate the rate~~ 46091

~~of inflation for the eighteen month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty first day of December of the fiscal year in which the rate will be paid, using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~

~~(2)(D)(1)~~ When annually adjusting rates for inflation under ~~division (B)(2)~~ of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the consumer price index for ~~all items for all urban consumers~~ nursing homes for the north central region, published by the United States bureau of labor statistics.

~~(3)(2)~~ If an inflation rate estimated under division ~~(C)(D)(1)~~ ~~or (2)~~ of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated for the same purpose pursuant to this division for the following fiscal year.

~~(D)(E)~~ The director of job and family services shall ~~adopt rules in accordance with Chapter 119. of the Revised Code that specify use~~ peer groups of nursing facilities based on findings of significant per diem indirect care cost differences due to geography and facility bed size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors for the purpose of this section that are the same as the peer groups specified in rules that were authorized by this section as this section existed on the day before the effective date of this amendment and were in

effect on January 1, 2004, except that nursing facilities located 46124
in Ottawa, Erie, Morrow, Union, or Preble counties shall be added 46125
to the metropolitan statistical area peer group specified in those 46126
rules. 46127

Sec. 5111.241. (A) The department of job and family services 46128
shall pay a provider for each of the provider's eligible 46129
intermediate care ~~facility~~ facilities for the mentally retarded a 46130
per resident per day rate for indirect care costs established 46131
prospectively each fiscal year for each facility. The rate for 46132
each intermediate care facility for the mentally retarded shall be 46133
the sum of the following, but shall not exceed the maximum rate 46134
established for the facility's peer group under division (B) of 46135
this section: 46136

(1) The facility's desk-reviewed, actual, allowable, per diem 46137
indirect care costs from the calendar year preceding the fiscal 46138
year in which the rate will be paid, adjusted for the inflation 46139
rate estimated under division (C)(1) of this section; 46140

(2) An efficiency incentive in the following amount: 46141

(a) For fiscal years ending in even-numbered calendar years: 46142

(i) In the case of intermediate care facilities for the 46143
mentally retarded with more than eight beds, seven and one-tenth 46144
per cent of the maximum rate established for the facility's peer 46145
group under division (B) of this section; 46146

(ii) In the case of intermediate care facilities for the 46147
mentally retarded with eight or fewer beds, seven per cent of the 46148
maximum rate established for the facility's peer group under 46149
division (B) of this section; 46150

(b) For fiscal years ending in odd-numbered calendar years, 46151
the amount calculated for the preceding fiscal year under division 46152
(A)(2)(a) of this section. 46153

(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the

group whose indirect care costs are more than three standard 46185
deviations from the mean desk-reviewed, actual, allowable, per 46186
diem indirect care cost for all intermediate care facilities for 46187
the mentally retarded with eight or fewer beds, for the calendar 46188
year preceding the fiscal year in which the rate will be paid, 46189
adjusted by the inflation rate estimated under division (C)(1) of 46190
this section. 46191

(b) For fiscal years that end in odd-numbered calendar years, 46192
the maximum rate for each peer group is the group's maximum rate 46193
for the previous fiscal year, adjusted for the inflation rate 46194
estimated under division (C)(2) of this section. 46195

(3) The department shall not recalculate a maximum rate for 46196
indirect care costs under division (B)(1) or (2) of this section 46197
based on additional information that it receives after the maximum 46198
rate is set. The department shall recalculate the maximum rate for 46199
indirect care costs only if it made an error in computing the 46200
maximum rate based on the information available at the time of the 46201
original calculation. 46202

(C)(1) When adjusting rates for inflation under divisions 46203
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 46204
shall estimate the rate of inflation for the eighteen-month period 46205
beginning on the first day of July of the calendar year preceding 46206
the fiscal year in which the rate will be paid and ending on the 46207
thirty-first day of December of the fiscal year in which the rate 46208
will be paid, using the consumer price index for all items for all 46209
urban consumers for the north central region, published by the 46210
United States bureau of labor statistics. 46211

(2) When adjusting rates for inflation under divisions 46212
(B)(1)(b) and (B)(2)(b) of this section, the department shall 46213
estimate the rate of inflation for the twelve-month period 46214
beginning on the first day of January of the fiscal year preceding 46215

the fiscal year in which the rate will be paid and ending on the 46216
thirty-first day of December of the fiscal year in which the rate 46217
will be paid, using the consumer price index for all items for all 46218
urban consumers for the north central region, published by the 46219
United States bureau of labor statistics. 46220

(3) If an inflation rate estimated under division (C)(1) or 46221
(2) of this section is different from the actual inflation rate 46222
for the relevant time period, as measured using the same index, 46223
the difference shall be added to or subtracted from the inflation 46224
rate estimated pursuant to this division for the following fiscal 46225
year. 46226

(D) The director of job and family services shall adopt rules 46227
~~in accordance with Chapter 119.~~ under section 5111.02 of the 46228
Revised Code that specify peer groups of intermediate care 46229
facilities for the mentally retarded with more than eight beds, 46230
and peer groups of intermediate care facilities for the mentally 46231
retarded with eight or fewer beds, based on findings of 46232
significant per diem indirect care cost differences due to 46233
geography and facility bed-size. The rules also may specify peer 46234
groups based on findings of significant per diem indirect care 46235
cost differences due to other factors, including case-mix. 46236

Sec. 5111.242. The department of job and family services 46237
shall pay each eligible nursing facility a per resident per day 46238
rate equal to the desk-reviewed, actual, allowable taxes imposed 46239
under Chapter 5751. of the Revised Code, real estate taxes, 46240
personal property taxes, and corporate franchise taxes the nursing 46241
facility paid during the calendar year preceding the fiscal year 46242
for which the payment is made divided by the number of inpatient 46243
days the facility would have had had its occupancy rate been one 46244
hundred per cent during that calendar year. 46245

Sec. 5111.25. (A) The department of job and family services 46246
shall pay a provider for each of the provider's eligible nursing 46247
~~facility facilities~~ a per resident per day rate for its reasonable 46248
capital costs established prospectively each fiscal year for each 46249
facility. Except as otherwise provided in sections 5111.20 to 46250
~~5111.32~~ 5111.33 of the Revised Code, the rate shall be based on 46251
the facility's capital costs for the calendar year preceding the 46252
fiscal year in which the rate will be paid. The rate shall equal 46253
the sum of divisions (A)(1) ~~to (3)~~ and (2) of this section: 46254

(1) The lesser of the following: 46255

(a) ~~Eighty eight and sixty five one hundredths~~ Ninety-five 46256
per cent of the facility's desk-reviewed, actual, allowable, per 46257
diem ~~cost of ownership and eighty five per cent of the facility's~~ 46258
~~actual, allowable, per diem cost of nonextensive renovation~~ 46259
~~determined under division (F) of this section~~ capital costs; 46260

(b) ~~Eighty eight and sixty five one hundredths per cent of~~ 46261
~~the~~ The following limitation: 46262

(i) ~~For the fiscal year beginning July 1, 1993~~ years 2007 and 46263
2008, sixteen twenty dollars and two cents per resident day; 46264

(ii) ~~For the fiscal year beginning July 1, 1994, sixteen~~ 46265
~~dollars per resident day, adjusted to reflect the rate of~~ 46266
~~inflation for the twelve month period beginning July 1, 1992, and~~ 46267
~~ending June 30, 1993, using the consumer price index for shelter~~ 46268
~~costs for all urban consumers for the north central region,~~ 46269
~~published by the United States bureau of labor statistics;~~ 46270

~~(iii)~~ For subsequent fiscal years, the limitation in effect 46271
during the previous fiscal year, adjusted to reflect the rate of 46272
inflation for the twelve-month period beginning on the first day 46273
of July for the calendar year preceding the calendar year that 46274
precedes the fiscal year and ending on the following thirtieth day 46275

of June, using the consumer price index for shelter costs for all 46276
urban consumers for the north central region, published by the 46277
United States bureau of labor statistics. 46278

(2) Any efficiency incentive determined under division (D) of 46279
this section. 46280

~~(3) Any amounts for return on equity determined under 46281
division (H) of this section. 46282~~

Buildings shall be depreciated using the straight line method 46283
over forty years or over a different period approved by the 46284
department. Components and equipment shall be depreciated using 46285
the straight-line method over a period designated in rules adopted 46286
~~by the director of job and family services in accordance with 46287
Chapter 119. under section 5111.02~~ of the Revised Code, consistent 46288
with the guidelines of the American hospital association, or over 46289
a different period approved by the department. Any rules ~~adopted 46290
under authorized by~~ this division that specify useful lives of 46291
buildings, components, or equipment apply only to assets acquired 46292
on or after July 1, 1993. Depreciation for costs paid or 46293
reimbursed by any government agency shall not be included in ~~cost 46294
of ownership or renovation capital costs~~ unless that part of the 46295
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 46296
Code is used to reimburse the government agency. 46297

(B) The capital cost basis of nursing facility assets shall 46298
be determined in the following manner: 46299

(1) ~~For purposes of calculating the rate to be paid for the 46300
fiscal year beginning July 1, 1993, for facilities with dates of 46301
licensure on or before June 30, 1993, the capital cost basis shall 46302
be equal to the following: 46303~~

~~(a) For facilities that have not had a change of ownership 46304
during the period beginning January 1, 1993, and ending June 30, 46305
1993, the desk reviewed, actual, allowable capital cost basis that 46306~~

~~is listed on the facility's cost report for the cost reporting
period ending December 31, 1992, plus the actual, allowable
capital cost basis of any assets constructed or acquired after
December 31, 1992, but before July 1, 1993, if the aggregate
capital costs of those assets would increase the facility's rate
for capital costs by twenty or more cents per resident per day.~~

~~(b) For facilities that have a date of licensure or had a
change of ownership during the period beginning January 1, 1993,
and ending June 30, 1993, the actual, allowable capital cost basis
of the person or government entity that owns the facility on June
30, 1993.~~

~~Capital cost basis shall be calculated as provided in
division (B)(1) of this section subject to approval by the United
States health care financing administration of any necessary
amendment to the state plan for providing medical assistance.~~

~~The department shall include the actual, allowable capital
cost basis of assets constructed or acquired during the period
beginning January 1, 1993, and ending June 30, 1993, in the
calculation for the facility's rate effective July 1, 1993, if the
aggregate capital costs of the assets would increase the
facility's rate by twenty or more cents per resident per day and
the facility provides the department with sufficient documentation
of the costs before June 1, 1993. If the facility provides the
documentation after that date, the department shall adjust the
facility's rate to reflect the costs of the assets one month after
the first day of the month after the department receives the
documentation.~~

~~(2) Except as provided in division (B)(4)(3) of this section,
for purposes of calculating the rates to be paid for fiscal years
beginning after June 30, 1994, for facilities with dates of
licensure on or before June 30, 1993, the capital cost basis of~~

each asset shall be equal to the desk-reviewed, actual, allowable, 46338
capital cost basis that is listed on the facility's cost report 46339
for the calendar year preceding the fiscal year during which the 46340
rate will be paid. 46341

~~(3)~~(2) For facilities with dates of licensure after June 30, 46342
1993, the capital cost basis shall be determined in accordance 46343
with the principles of the medicare program established under 46344
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 46345
U.S.C.A. 301, as amended, except as otherwise provided in sections 46346
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code. 46347

~~(4)~~(3) Except as provided in division (B)~~(5)~~(4) of this 46348
section, if a provider transfers an interest in a facility to 46349
another provider after June 30, 1993, there shall be no increase 46350
in the capital cost basis of the asset if the providers are 46351
related parties or the provider to which the interest is 46352
transferred authorizes the provider that transferred the interest 46353
to continue to operate the facility under a lease, management 46354
agreement, or other arrangement. If the ~~providers are not related~~ 46355
~~parties or if they are related parties and division (B)(5) of this~~ 46356
~~section requires~~ previous sentence does not prohibit the 46357
adjustment of the capital cost basis under this division, the 46358
basis of the asset shall be adjusted by the lesser of the 46359
following: 46360

(a) One-half of the change in construction costs during the 46361
time that the transferor held the asset, as calculated by the 46362
department of job and family services using the "Dodge building 46363
cost indexes, northeastern and north central states," published by 46364
Marshall and Swift; 46365

(b) One-half of the change in the consumer price index for 46366
all items for all urban consumers, as published by the United 46367
States bureau of labor statistics, during the time that the 46368
transferor held the asset. 46369

~~(5)(4)~~ If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (B)~~(4)(3)~~ of this section ~~for a transfer to a provider that is not a related party~~ if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (B)~~(5)(4)~~(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules ~~the department shall adopt in accordance with Chapter 119. adopted under section 5111.02~~ of the Revised Code ~~no later than December 31, 2000~~. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (B)~~(5)~~(4) of this section or actual, allowable cost of ownership was determined most recently under division (C)(9) of this section.

(C) As used in this division, ~~"lease:~~

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease. ~~As used in this division, "new~~

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost of ownership during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost of ownership if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to the limitation specified in division (A)(1) of this section, for a lease of a facility that was in existence but

not operated under a lease on May 27, 1992, actual, allowable ~~cost~~ 46430
~~of ownership~~ capital costs shall include the lesser of the annual 46431
lease expense or the annual depreciation expense and imputed 46432
interest expense that would be calculated at the inception of the 46433
lease using the lessor's entire historical capital asset cost 46434
basis, adjusted by the lesser of the following amounts: 46435

(a) One-half of the change in construction costs during the 46436
time the lessor held each asset until the beginning of the lease, 46437
as calculated by the department using the "Dodge building cost 46438
indexes, northeastern and north central states," published by 46439
Marshall and Swift; 46440

(b) One-half of the change in the consumer price index for 46441
all items for all urban consumers, as published by the United 46442
States bureau of labor statistics, during the time the lessor held 46443
each asset until the beginning of the lease. 46444

(3) Subject to the limitation specified in division (A)(1) of 46445
this section, for a lease of a facility with a date of licensure 46446
on or after May 27, 1992, that is initially operated under a 46447
lease, actual, allowable ~~cost of ownership~~ capital costs shall 46448
include the annual lease expense if there was a substantial 46449
commitment of money for construction of the facility after 46450
December 22, 1992, and before July 1, 1993. If there was not a 46451
substantial commitment of money after December 22, 1992, and 46452
before July 1, 1993, actual, allowable ~~cost of ownership~~ capital 46453
costs shall include the lesser of the annual lease expense or the 46454
sum of the following: 46455

(a) The annual depreciation expense that would be calculated 46456
at the inception of the lease using the lessor's entire historical 46457
capital asset cost basis; 46458

(b) The greater of the lessor's actual annual amortization of 46459
financing costs and interest expense at the inception of the lease 46460

or the imputed interest expense calculated at the inception of the 46461
lease using seventy per cent of the lessor's historical capital 46462
asset cost basis. 46463

(4) Subject to the limitation specified in division (A)(1) of 46464
this section, for a lease of a facility with a date of licensure 46465
on or after May 27, 1992, that was not initially operated under a 46466
lease and has been in existence for ten years, actual, allowable 46467
~~cost of ownership~~ capital costs shall include the lesser of the 46468
annual lease expense or the annual depreciation expense and 46469
imputed interest expense that would be calculated at the inception 46470
of the lease using the entire historical capital asset cost basis 46471
of the lessor, adjusted by the lesser of the following: 46472

(a) One-half of the change in construction costs during the 46473
time the lessor held each asset until the beginning of the lease, 46474
as calculated by the department using the "Dodge building cost 46475
indexes, northeastern and north central states," published by 46476
Marshall and Swift; 46477

(b) One-half of the change in the consumer price index for 46478
all items for all urban consumers, as published by the United 46479
States bureau of labor statistics, during the time the lessor held 46480
each asset until the beginning of the lease. 46481

(5) Subject to the limitation specified in division (A)(1) of 46482
this section, for a new lease of a facility that was operated 46483
under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ 46484
capital costs shall include the lesser of the annual new lease 46485
expense or the annual old lease payment. If the old lease was in 46486
effect for ten years or longer, the old lease payment from the 46487
beginning of the old lease shall be adjusted by the lesser of the 46488
following: 46489

(a) One-half of the change in construction costs from the 46490
beginning of the old lease to the beginning of the new lease, as 46491

calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift;

(b) One-half of the change in the consumer price index for
all items for all urban consumers, as published by the United
States bureau of labor statistics, from the beginning of the old
lease to the beginning of the new lease.

(6) Subject to the limitation specified in division (A)(1) of
this section, for a new lease of a facility that was not in
existence or that was in existence but not operated under a lease
on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs
shall include the lesser of annual new lease expense or the annual
amount calculated for the old lease under division (C)(2), (3),
(4), or (6) of this section, as applicable. If the old lease was
in effect for ten years or longer, the lessor's historical capital
asset cost basis shall be adjusted by the lesser of the following
for purposes of calculating the annual amount under division
(C)(2), (3), (4), or (6) of this section:

(a) One-half of the change in construction costs from the
beginning of the old lease to the beginning of the new lease, as
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift;

(b) One-half of the change in the consumer price index for
all items for all urban consumers, as published by the United
States bureau of labor statistics, from the beginning of the old
lease to the beginning of the new lease.

In the case of a lease under division (C)(3) of this section
of a facility for which a substantial commitment of money was made
after December 22, 1992, and before July 1, 1993, the old lease
payment shall be adjusted for the purpose of determining the

annual amount. 46523

(7) For any revision of a lease described in division (C)(1), 46524
(2), (3), (4), (5), or (6) of this section, or for any subsequent 46525
lease of a facility operated under such a lease, other than 46526
execution of a new lease, the portion of actual, allowable ~~cost of~~ 46527
~~ownership~~ capital costs attributable to the lease shall be the 46528
same as before the revision or subsequent lease. 46529

(8) Except as provided in division (C)(9) of this section, if 46530
a provider leases an interest in a facility to another provider 46531
who is a related party or previously operated the facility, the 46532
related party's or previous operator's actual, allowable ~~cost of~~ 46533
~~ownership~~ capital costs shall include the lesser of the annual 46534
lease expense or the reasonable cost to the lessor. 46535

(9) If a provider leases an interest in a facility to another 46536
provider who is a related party, regardless of the date of the 46537
lease, the related party's actual, allowable ~~cost of ownership~~ 46538
capital costs shall include the annual lease expense, subject to 46539
the limitations specified in divisions (C)(1) to (7) of this 46540
section, if all of the following conditions are met: 46541

(a) The related party is a relative of owner; 46542

(b) If the lessor retains an ownership interest, it is, 46543
except as provided in division (C)(9)(c)(ii) of this section, in 46544
only the real property and any improvements on the real property; 46545

(c) The department of job and family services determines that 46546
the lease is an arm's length transaction pursuant to rules ~~the~~ 46547
~~department shall adopt in accordance with Chapter 119. adopted~~ 46548
under section 5111.02 of the Revised Code ~~no later than December~~ 46549
~~31, 2000~~. The rules shall provide that a lease is an arm's length 46550
transaction if all of the following apply: 46551

(i) Once the lease goes into effect, the lessor has no direct 46552

or indirect interest in the lessee or, except as provided in 46553
division (C)(9)(b) of this section, the facility itself, including 46554
interest as an owner, officer, director, employee, independent 46555
contractor, or consultant, but excluding interest as a lessor. 46556

(ii) The lessor does not reacquire an interest in the 46557
facility except through the exercise of a lessor's rights in the 46558
event of a default. If the lessor reacquires an interest in the 46559
facility in this manner, the department shall treat the facility 46560
as if the lease never occurred when the department calculates its 46561
reimbursement rates for capital costs. 46562

(iii) The lease satisfies any other criteria specified in the 46563
rules. 46564

(d) Except in the case of hardship caused by a catastrophic 46565
event, as determined by the department, or in the case of a lessor 46566
who is at least sixty-five years of age, not less than twenty 46567
years have elapsed since, for the same facility, the capital cost 46568
basis was adjusted most recently under division (B)(5) of this 46569
section or actual, allowable ~~cost of ownership was~~ capital costs 46570
were determined most recently under division (C)(9) of this 46571
section. 46572

(10) This division does not apply to leases of specific items 46573
of equipment. 46574

(D)(1) Subject to division (D)(2) of this section, the 46575
department shall pay a provider for each of the provider's 46576
eligible nursing facility facilities an efficiency incentive that 46577
is equal to fifty per cent of the difference between the 46578
following: 46579

(a) ~~Eighty eight and sixty five one hundredths~~ Ninety-five 46580
per cent of the facility's desk-reviewed, actual, allowable, per 46581
diem ~~cost of ownership~~ capital costs; 46582

~~(b) The applicable amount specified in division (E) of this section Ten dollars per resident per day.~~ 46583
46584

~~(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:~~ 46585
46586

~~(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994:~~ 46587
46588

~~(b) Three two dollars and fifty cents 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.~~ 46589
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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.~~ 46598
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~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~ 46603
46604

~~(1) For facilities with dates of licensure prior to January 1, 1958, four dollars and twenty four cents per patient day;~~ 46605
46606

~~(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968:~~ 46607
46608

~~(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;~~ 46609
46610
46611

~~(b) Four dollars and twenty four cents per patient day if the~~ 46612

~~cost of construction was less than three thousand five hundred
dollars per bed.~~ 46613
46614

~~(3) For facilities with dates of licensure after December 31,
1967, but prior to January 1, 1976:~~ 46615
46616

~~(a) Six dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or more per bed;~~ 46617
46618
46619

~~(b) Five dollars and twenty four cents per patient day if the
cost of construction was less than five thousand one hundred fifty
dollars per bed, but exceeded three thousand five hundred dollars
per bed;~~ 46620
46621
46622
46623

~~(c) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 46624
46625
46626

~~(4) For facilities with dates of licensure after December 31,
1975, but prior to January 1, 1979:~~ 46627
46628

~~(a) Seven dollars and twenty four cents per patient day if
the cost of construction was six thousand eight hundred dollars or
more per bed;~~ 46629
46630
46631

~~(b) Six dollars and twenty four cents per patient day if the
cost of construction was less than six thousand eight hundred
dollars per bed but exceeded five thousand one hundred fifty
dollars per bed;~~ 46632
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46635

~~(c) Five dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or less per bed, but exceeded three thousand five hundred dollars
per bed;~~ 46636
46637
46638
46639

~~(d) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 46640
46641
46642

(5) For facilities with dates of licensure after December 31,	46643
1978, but prior to January 1, 1981:	46644
(a) Seven dollars and seventy four cents per patient day if	46645
the cost of construction was seven thousand six hundred	46646
twenty five dollars or more per bed;	46647
(b) Seven dollars and twenty four cents per patient day if	46648
the cost of construction was less than seven thousand six hundred	46649
twenty five dollars per bed but exceeded six thousand eight	46650
hundred dollars per bed;	46651
(c) Six dollars and twenty four cents per patient day if the	46652
cost of construction was six thousand eight hundred dollars or	46653
less per bed but exceeded five thousand one hundred fifty dollars	46654
per bed;	46655
(d) Five dollars and twenty four cents per patient day if the	46656
cost of construction was five thousand one hundred fifty dollars	46657
or less but exceeded three thousand five hundred dollars per bed;	46658
(e) Four dollars and twenty four cents per patient day if the	46659
cost of construction was three thousand five hundred dollars or	46660
less per bed.	46661
(6) For facilities with dates of licensure in 1981 or any	46662
year thereafter prior to December 22, 1992, the following amount:	46663
(a) For facilities with construction costs less than seven	46664
thousand six hundred twenty five dollars per bed, the applicable	46665
amounts for the construction costs specified in divisions	46666
(E)(5)(b) to (e) of this section;	46667
(b) For facilities with construction costs of seven thousand	46668
six hundred twenty five dollars or more per bed, six dollars per	46669
patient day, provided that for 1981 and annually thereafter prior	46670
to December 22, 1992, department shall do both of the following to	46671
the six dollar amount:	46672

~~(i) Adjust the amount for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, using 1980 as the base year;~~ 46673
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~~(ii) Increase the amount, as adjusted for inflation under division (E)(6)(b)(i) of this section, by one dollar and seventy four cents.~~ 46677
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~~(7) For facilities with dates of licensure on or after January 1, 1992, seven dollars and ninety seven cents, adjusted for fluctuations in construction costs between 1991 and 1993 as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, and then increased by one dollar and seventy four cents.~~ 46680
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~~For the fiscal year that begins July 1, 1994, each of the amounts listed in divisions (E)(1) to (7) of this section shall be increased by twenty five cents. For the fiscal year that begins July 1, 1995, each of those amounts shall be increased by an additional twenty five cents. For subsequent fiscal years, each of those amounts, as increased for the prior fiscal year, shall be adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~ 46687
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~~If the amount established for a nursing facility under this division is less than the amount that applied to the facility under division (B) of former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22,~~ 46700
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~~1992, the amount used to calculate the efficiency incentive for
the facility under division (D)(2) of this section shall be the
amount that was calculated under division (B) of the former
section.~~

~~(F) Beginning July 1, 1993, regardless of the facility's date
of licensure or the date of the nonextensive renovations, the rate
for the costs of nonextensive renovations for nursing facilities
shall be eighty five per cent of the desk reviewed, actual,
allowable, per diem, nonextensive renovation costs. This division
applies to nonextensive renovations regardless of whether they are
made by an owner or a lessee. If the tenancy of a lessee that has
made nonextensive renovations ends before the depreciation expense
for the renovation costs has been fully reported, the former
lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to
qualify for payment under this division, both of the following
conditions must be met:~~

~~(a) At least five years have elapsed since the date of
licensure of the portion of the facility that is proposed to be
renovated, except that this condition does not apply if the
renovation is necessary to meet the requirements of federal,
state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the
department of job and family services, and if required the
director of health has granted a certificate of need for the
renovation under section 3702.52 of the Revised Code. The provider
shall submit a plan that describes in detail the changes in
capital assets to be accomplished by means of the renovation and
the timetable for completing the project. The time for completion
of the project shall be no more than eighteen months after the
renovation begins. The department of job and family services shall~~

~~adopt rules in accordance with Chapter 119. of the Revised Code 46735
that specify criteria and procedures for prior approval of 46736
renovation projects. No provider shall separate a project with the 46737
intent to evade the characterization of the project as a 46738
renovation or as an extensive renovation. No provider shall 46739
increase the scope of a project after it is approved by the 46740
department of job and family services unless the increase in scope 46741
is approved by the department. 46742~~

~~(2) The payment provided for in this division is the only 46743
payment that shall be made for the costs of a nonextensive 46744
renovation. Nonextensive renovation costs shall not be included in 46745
costs of ownership, and a nonextensive renovation shall not affect 46746
the date of licensure for purposes of calculating the efficiency 46747
incentive under divisions (D) and (E) of this section. 46748~~

~~(G) The owner (E) A provider of a nursing facility operating 46749
under a provider agreement shall provide written notice to the 46750
department of job and family services at least forty-five days 46751
prior to entering into any contract of sale for the facility or 46752
voluntarily terminating participation in the ~~medical assistance~~ 46753
medicaid program. After the date on which a transaction of sale is 46754
closed, the ~~owner~~ provider shall refund to the department the 46755
amount of excess depreciation paid to the provider for the 46756
facility by the department for each year the ~~owner~~ provider has 46757
operated the facility under a provider agreement and prorated 46758
according to the number of medicaid patient days for which the 46759
~~facility~~ provider has received payment for the facility. If a 46760
nursing facility is sold after five or fewer years of operation 46761
under a provider agreement, the refund to the department shall be 46762
equal to the excess depreciation paid to the provider for the 46763
facility. If a nursing facility is sold after more than five years 46764
but less than ten years of operation under a provider agreement, 46765
the refund to the department shall equal the excess depreciation 46766~~

paid to the provider for the facility multiplied by twenty per 46767
cent, multiplied by the difference between ten and the number of 46768
years that the facility was operated under a provider agreement. 46769
If a nursing facility is sold after ten or more years of operation 46770
under a provider agreement, the ~~owner~~ provider shall not refund 46771
any excess depreciation to the department. The ~~owner~~ provider of a 46772
facility that is sold or that voluntarily terminates participation 46773
in the ~~medical assistance~~ medicaid program also shall refund any 46774
other amount that the department properly finds to be due after 46775
the audit conducted under this division. For the purposes of this 46776
division, "depreciation paid to the provider for the facility" 46777
means the amount paid to the provider for the nursing facility for 46778
~~cost of ownership~~ capital costs pursuant to this section less any 46779
amount paid for interest costs, amortization of financing costs, 46780
and lease expenses. For the purposes of this division, "excess 46781
depreciation" is the nursing facility's depreciated basis, which 46782
is the ~~owner's~~ provider's cost less accumulated depreciation, 46783
subtracted from the purchase price net of selling costs but not 46784
exceeding the amount of depreciation paid to the provider for the 46785
facility. 46786

A cost report shall be filed with the department within 46787
ninety days after the date on which the transaction of sale is 46788
closed or participation is voluntarily terminated. The report 46789
shall show the accumulated depreciation, the sales price, and 46790
other information required by the department. The department shall 46791
provide for a bank, trust company, or savings and loan association 46792
to hold in escrow the amount of the last two monthly payments to a 46793
provider of a nursing facility made pursuant to division (A)(1) of 46794
section 5111.22 of the Revised Code before a sale or termination 46795
of participation or, if the ~~owner~~ provider fails, within the time 46796
required by this division, to notify the department before 46797
entering into a contract of sale for the facility, the amount of 46798
the first two monthly payments made to the provider for the 46799

facility after the department learns of the contract, regardless 46800
of whether a new owner is in possession of the facility. If the 46801
amount the ~~owner~~ provider will be required to refund under this 46802
section is likely to be less than the amount of the two monthly 46803
payments otherwise put into escrow under this division, the 46804
department shall take one of the following actions instead of 46805
withholding the amount of the two monthly payments: 46806

(1) In the case of ~~an owner~~ a provider that owns other 46807
facilities that participate in the ~~medical assistance~~ medicaid 46808
program, obtain a promissory note in an amount sufficient to cover 46809
the amount likely to be refunded; 46810

(2) In the case of all other ~~owners~~ providers, withhold the 46811
amount of the last monthly payment to the provider for the nursing 46812
facility or, if the ~~owner~~ provider fails, within the time required 46813
by this division, to notify the department before entering into a 46814
contract of sale for the facility, the amount of the first monthly 46815
payment made to the provider for the facility after the department 46816
learns of the contract, regardless of whether a new owner is in 46817
possession of the facility. 46818

The department shall, within ninety days following the filing 46819
of the cost report, audit the cost report and issue an audit 46820
report to the ~~owner~~ provider. The department also may audit any 46821
other cost report that the ~~facility~~ provider has filed during the 46822
previous three years for the facility. In the audit report, the 46823
department shall state its findings and the amount of any money 46824
owed to the department by the ~~nursing facility~~ provider. The 46825
findings shall be subject to adjudication conducted in accordance 46826
with Chapter 119. of the Revised Code. No later than fifteen days 46827
after the ~~owner~~ provider agrees to a settlement, any funds held in 46828
escrow less any amounts due to the department shall be released to 46829
the ~~owner~~ provider and amounts due to the department shall be paid 46830
to the department. If the amounts in escrow are less than the 46831

amounts due to the department, the balance shall be paid to the 46832
department within fifteen days after the ~~owner~~ provider agrees to 46833
a settlement. If the department does not issue its audit report 46834
within the ninety-day period, the department shall release any 46835
money held in escrow to the ~~owner~~ provider. For the purposes of 46836
this section, a transfer of corporate stock, the merger of one 46837
corporation into another, or a consolidation does not constitute a 46838
sale. Also, a change of ownership, lease, or termination of a 46839
lease of real or personal property associated with a nursing 46840
facility does not constitute a sale if there is no change in the 46841
operator of the facility. 46842

If a nursing facility is not sold or its participation is not 46843
terminated after notice is provided to the department under this 46844
division, the department shall order any payments held in escrow 46845
released to the ~~facility~~ provider upon receiving written notice 46846
from the ~~owner~~ provider that there will be no sale or termination. 46847
After written notice is received from a ~~nursing facility~~ provider 46848
that a sale or termination will not take place, the ~~facility~~ 46849
provider shall provide notice to the department at least 46850
forty-five days prior to entering into any contract of sale or 46851
terminating participation at any future time. 46852

~~(H) The department shall pay each eligible proprietary 46853
nursing facility a return on the facility's net equity computed at 46854
the rate of one and one half times the average interest rate on 46855
special issues of public debt obligations issued to the federal 46856
hospital insurance trust fund for the cost reporting period, 46857
except that no facility's return on net equity shall exceed fifty 46858
cents per patient day. 46859~~

~~When calculating the rate for return on net equity, the 46860
department shall use the greater of the facility's inpatient days 46861
during the applicable cost reporting period or the number of 46862
inpatient days the facility would have had during that period if 46863~~

~~its occupancy rate had been ninety five per cent.~~

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~~(I) If a nursing facility would receive a lower rate for capital costs for assets in the facility's possession on July 1, 1993, under this section than it would receive under former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the facility shall receive for those assets the rate it would have received under the former section for each fiscal year beginning on or after July 1, 1993, until the rate it would receive under this section exceeds the rate it would have received under the former section. Any facility that receives a rate calculated under the former section 5111.25 of the Revised Code for assets in the facility's possession on July 1, 1993, also shall receive a rate calculated under this section for costs of any assets it constructs or acquires after July 1, 1993.~~

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Sec. 5111.251. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

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(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

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(2) Any efficiency incentive determined under division (B) of this section;

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(3) Any amounts for renovations determined under division (D) 46894
of this section; 46895

(4) Any amounts for return on equity determined under 46896
division (I) of this section. 46897

Buildings shall be depreciated using the straight line method 46898
over forty years or over a different period approved by the 46899
department. Components and equipment shall be depreciated using 46900
the straight line method over a period designated by the director 46901
of job and family services in rules adopted ~~in accordance with~~ 46902
~~Chapter 119. under section 5111.02~~ of the Revised Code, consistent 46903
with the guidelines of the American hospital association, or over 46904
a different period approved by the department of job and family 46905
services. Any rules ~~adopted under~~ authorized by this division that 46906
specify useful lives of buildings, components, or equipment apply 46907
only to assets acquired on or after July 1, 1993. Depreciation for 46908
costs paid or reimbursed by any government agency shall not be 46909
included in costs of ownership or renovation unless that part of 46910
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 46911
Revised Code is used to reimburse the government agency. 46912

(B) The department of job and family services shall pay to a 46913
provider for each of the provider's eligible intermediate care 46914
~~facility facilities~~ for the mentally retarded an efficiency 46915
incentive equal to fifty per cent of the difference between any 46916
desk-reviewed, actual, allowable cost of ownership and the 46917
applicable limit on cost of ownership payments under division (C) 46918
of this section. For purposes of computing the efficiency 46919
incentive, depreciation for costs paid or reimbursed by any 46920
government agency shall be considered as a cost of ownership, and 46921
the applicable limit under division (C) of this section shall 46922
apply both to facilities with more than eight beds and facilities 46923
with eight or fewer beds. The efficiency incentive paid to a 46924
provider for a facility with eight or fewer beds shall not exceed 46925

three dollars per patient day, adjusted annually for the inflation 46926
rate for the twelve-month period beginning on the first day of 46927
July of the calendar year preceding the calendar year that 46928
precedes the fiscal year for which the efficiency incentive is 46929
determined and ending on the thirtieth day of the following June, 46930
using the consumer price index for shelter costs for all urban 46931
consumers for the north central region, as published by the United 46932
States bureau of labor statistics. 46933

(C) Cost of ownership payments ~~to~~ for intermediate care 46934
facilities for the mentally retarded with more than eight beds 46935
shall not exceed the following limits: 46936

(1) For facilities with dates of licensure prior to January 46937
1, 1958, not exceeding two dollars and fifty cents per patient 46938
day; 46939

(2) For facilities with dates of licensure after December 31, 46940
1957, but prior to January 1, 1968, not exceeding: 46941

(a) Three dollars and fifty cents per patient day if the cost 46942
of construction was three thousand five hundred dollars or more 46943
per bed; 46944

(b) Two dollars and fifty cents per patient day if the cost 46945
of construction was less than three thousand five hundred dollars 46946
per bed. 46947

(3) For facilities with dates of licensure after December 31, 46948
1967, but prior to January 1, 1976, not exceeding: 46949

(a) Four dollars and fifty cents per patient day if the cost 46950
of construction was five thousand one hundred fifty dollars or 46951
more per bed; 46952

(b) Three dollars and fifty cents per patient day if the cost 46953
of construction was less than five thousand one hundred fifty 46954
dollars per bed, but exceeds three thousand five hundred dollars 46955

per bed;	46956
(c) Two dollars and fifty cents per patient day if the cost	46957
of construction was three thousand five hundred dollars or less	46958
per bed.	46959
(4) For facilities with dates of licensure after December 31,	46960
1975, but prior to January 1, 1979, not exceeding:	46961
(a) Five dollars and fifty cents per patient day if the cost	46962
of construction was six thousand eight hundred dollars or more per	46963
bed;	46964
(b) Four dollars and fifty cents per patient day if the cost	46965
of construction was less than six thousand eight hundred dollars	46966
per bed but exceeds five thousand one hundred fifty dollars per	46967
bed;	46968
(c) Three dollars and fifty cents per patient day if the cost	46969
of construction was five thousand one hundred fifty dollars or	46970
less per bed, but exceeds three thousand five hundred dollars per	46971
bed;	46972
(d) Two dollars and fifty cents per patient day if the cost	46973
of construction was three thousand five hundred dollars or less	46974
per bed.	46975
(5) For facilities with dates of licensure after December 31,	46976
1978, but prior to January 1, 1980, not exceeding:	46977
(a) Six dollars per patient day if the cost of construction	46978
was seven thousand six hundred twenty-five dollars or more per	46979
bed;	46980
(b) Five dollars and fifty cents per patient day if the cost	46981
of construction was less than seven thousand six hundred	46982
twenty-five dollars per bed but exceeds six thousand eight hundred	46983
dollars per bed;	46984
(c) Four dollars and fifty cents per patient day if the cost	46985

of construction was six thousand eight hundred dollars or less per	46986
bed but exceeds five thousand one hundred fifty dollars per bed;	46987
(d) Three dollars and fifty cents per patient day if the cost	46988
of construction was five thousand one hundred fifty dollars or	46989
less but exceeds three thousand five hundred dollars per bed;	46990
(e) Two dollars and fifty cents per patient day if the cost	46991
of construction was three thousand five hundred dollars or less	46992
per bed.	46993
(6) For facilities with dates of licensure after December 31,	46994
1979, but prior to January 1, 1981, not exceeding:	46995
(a) Twelve dollars per patient day if the beds were	46996
originally licensed as residential facility beds by the department	46997
of mental retardation and developmental disabilities;	46998
(b) Six dollars per patient day if the beds were originally	46999
licensed as nursing home beds by the department of health.	47000
(7) For facilities with dates of licensure after December 31,	47001
1980, but prior to January 1, 1982, not exceeding:	47002
(a) Twelve dollars per patient day if the beds were	47003
originally licensed as residential facility beds by the department	47004
of mental retardation and developmental disabilities;	47005
(b) Six dollars and forty-five cents per patient day if the	47006
beds were originally licensed as nursing home beds by the	47007
department of health.	47008
(8) For facilities with dates of licensure after December 31,	47009
1981, but prior to January 1, 1983, not exceeding:	47010
(a) Twelve dollars per patient day if the beds were	47011
originally licensed as residential facility beds by the department	47012
of mental retardation and developmental disabilities;	47013
(b) Six dollars and seventy-nine cents per patient day if the	47014

beds were originally licensed as nursing home beds by the department of health. 47015
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(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding: 47017
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(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; 47019
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(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 47022
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(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding: 47025
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(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; 47027
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(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. 47031
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(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding: 47034
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(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; 47036
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(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. 47040
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(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding: 47043
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(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;	47045 47046 47047
(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	47048 47049 47050
(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:	47051 47052
(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;	47053 47054 47055 47056
(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.	47057 47058 47059
(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;	47060 47061 47062
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;	47063 47064 47065
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	47066 47067 47068
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	47069 47070 47071
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	47072 47073 47074

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day. 47075
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(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense. 47078
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For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met: 47099
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(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies. 47101
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(2) The provider has obtained prior approval from the 47107
department of job and family services. The provider shall submit a 47108
plan that describes in detail the changes in capital assets to be 47109
accomplished by means of the renovation and the timetable for 47110
completing the project. The time for completion of the project 47111
shall be no more than eighteen months after the renovation begins. 47112
The director of job and family services shall adopt rules ~~in~~ 47113
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 47114
Code that specify criteria and procedures for prior approval of 47115
renovation projects. No provider shall separate a project with the 47116
intent to evade the characterization of the project as a 47117
renovation or as an extensive renovation. No provider shall 47118
increase the scope of a project after it is approved by the 47119
department of job and family services unless the increase in scope 47120
is approved by the department. 47121

(E) The amounts specified in divisions (C) and (D) of this 47122
section shall be adjusted beginning July 1, 1993, for the 47123
estimated inflation for the twelve-month period beginning on the 47124
first day of July of the calendar year preceding the calendar year 47125
that precedes the fiscal year for which rate will be paid and 47126
ending on the thirtieth day of the following June, using the 47127
consumer price index for shelter costs for all urban consumers for 47128
the north central region, as published by the United States bureau 47129
of labor statistics. 47130

(F)(1) For facilities of eight or fewer beds that have dates 47131
of licensure or have been granted project authorization by the 47132
department of mental retardation and developmental disabilities 47133
before July 1, 1993, and for facilities of eight or fewer beds 47134
that have dates of licensure or have been granted project 47135
authorization after that date if the providers of the facilities 47136
demonstrate that they made substantial commitments of funds on or 47137
before that date, cost of ownership shall not exceed eighteen 47138

dollars and thirty cents per resident per day. The eighteen-dollar 47139
and thirty-cent amount shall be increased by the change in the 47140
"Dodge building cost indexes, northeastern and north central 47141
states," published by Marshall and Swift, during the period 47142
beginning June 30, 1990, and ending July 1, 1993, and by the 47143
change in the consumer price index for shelter costs for all urban 47144
consumers for the north central region, as published by the United 47145
States bureau of labor statistics, annually thereafter. 47146

(2) For facilities with eight or fewer beds that have dates 47147
of licensure or have been granted project authorization by the 47148
department of mental retardation and developmental disabilities on 47149
or after July 1, 1993, for which substantial commitments of funds 47150
were not made before that date, cost of ownership payments shall 47151
not exceed the applicable amount calculated under division (F)(1) 47152
of this section, if the department of job and family services 47153
gives prior approval for construction of the facility. If the 47154
department does not give prior approval, cost of ownership 47155
payments shall not exceed the amount specified in division (C) of 47156
this section. 47157

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 47158
section, the total payment for cost of ownership, cost of 47159
ownership efficiency incentive, and capitalized costs of 47160
renovations for an intermediate care facility for the mentally 47161
retarded with eight or fewer beds shall not exceed the sum of the 47162
limitations specified in divisions (C) and (D) of this section. 47163

(G) Notwithstanding any provision of this section or section 47164
5111.24 of the Revised Code, the director of job and family 47165
services may adopt rules ~~in accordance with Chapter 119.~~ under 47166
section 5111.02 of the Revised Code that provide for a calculation 47167
of a combined maximum payment limit for indirect care costs and 47168
cost of ownership for intermediate care facilities for the 47169
mentally retarded with eight or fewer beds. 47170

(H) After June 30, 1980, the ~~owner~~ provider of an 47171
intermediate care facility for the mentally retarded ~~operating~~ 47172
~~under a provider agreement~~ shall provide written notice to the 47173
department of job and family services at least forty-five days 47174
prior to entering into any contract of sale for the facility or 47175
voluntarily terminating participation in the ~~medical assistance~~ 47176
medicaid program. After the date on which a transaction of sale is 47177
closed, the ~~owner~~ provider shall refund to the department the 47178
amount of excess depreciation paid to the provider for the 47179
facility by the department for each year the ~~owner~~ provider has 47180
operated the facility under a provider agreement and prorated 47181
according to the number of medicaid patient days for which the 47182
~~facility~~ provider has received payment for the facility. If an 47183
intermediate care facility for the mentally retarded is sold after 47184
five or fewer years of operation under a provider agreement, the 47185
refund to the department shall be equal to the excess depreciation 47186
paid to the provider for the facility. If an intermediate care 47187
facility for the mentally retarded is sold after more than five 47188
years but less than ten years of operation under a provider 47189
agreement, the refund to the department shall equal the excess 47190
depreciation paid to the provider for the facility multiplied by 47191
twenty per cent, multiplied by the number of years less than ten 47192
that a facility was operated under a provider agreement. If an 47193
intermediate care facility for the mentally retarded is sold after 47194
ten or more years of operation under a provider agreement, the 47195
~~owner~~ provider shall not refund any excess depreciation to the 47196
department. For the purposes of this division, "depreciation paid 47197
to the provider for the facility" means the amount paid to the 47198
provider for the intermediate care facility for the mentally 47199
retarded for cost of ownership pursuant to this section less any 47200
amount paid for interest costs. For the purposes of this division, 47201
"excess depreciation" is the intermediate care facility for the 47202
mentally retarded's depreciated basis, which is the ~~owner's~~ 47203

provider's cost less accumulated depreciation, subtracted from the 47204
purchase price but not exceeding the amount of depreciation paid 47205
to the provider for the facility. 47206

A cost report shall be filed with the department within 47207
ninety days after the date on which the transaction of sale is 47208
closed or participation is voluntarily terminated for an 47209
intermediate care facility for the mentally retarded subject to 47210
this division. The report shall show the accumulated depreciation, 47211
the sales price, and other information required by the department. 47212
The department shall provide for a bank, trust company, or savings 47213
and loan association to hold in escrow the amount of the last two 47214
monthly payments to the provider of an intermediate care facility 47215
for the mentally retarded made pursuant to division (A)(1) of 47216
section 5111.22 of the Revised Code before a sale or voluntary 47217
termination of participation or, if the ~~owner~~ provider fails, 47218
within the time required by this division, to notify the 47219
department before entering into a contract of sale for the 47220
facility, the amount of the first two monthly payments made to the 47221
provider for the facility after the department learns of the 47222
contract, regardless of whether a new owner is in possession of 47223
the facility. If the amount the ~~owner~~ provider will be required to 47224
refund under this section is likely to be less than the amount of 47225
the two monthly payments otherwise put into escrow under this 47226
division, the department shall take one of the following actions 47227
instead of withholding the amount of the two monthly payments: 47228

(1) In the case of ~~an owner~~ a provider that owns other 47229
facilities that participate in the ~~medical assistance~~ medicaid 47230
program, obtain a promissory note in an amount sufficient to cover 47231
the amount likely to be refunded; 47232

(2) In the case of all other ~~owners~~ providers, withhold the 47233
amount of the last monthly payment to the provider for the 47234
intermediate care facility for the mentally retarded or, if the 47235

~~owner~~ provider fails, within the time required by this division, 47236
to notify the department before entering into a contract of sale 47237
for the facility, the amount of the first monthly payment made to 47238
the provider for the facility after the department learns of the 47239
contract, regardless of whether a new owner is in possession of 47240
the facility. 47241

The department shall, within ninety days following the filing 47242
of the cost report, audit the report and issue an audit report to 47243
the ~~owner~~ provider. The department also may audit any other cost 47244
reports for the facility that have been filed during the previous 47245
three years. In the audit report, the department shall state its 47246
findings and the amount of any money owed to the department by the 47247
~~intermediate care facility for the mentally retarded~~ provider. The 47248
findings shall be subject to an adjudication conducted in 47249
accordance with Chapter 119. of the Revised Code. No later than 47250
fifteen days after the ~~owner~~ provider agrees to a settlement, any 47251
funds held in escrow less any amounts due to the department shall 47252
be released to the ~~owner~~ provider and amounts due to the 47253
department shall be paid to the department. If the amounts in 47254
escrow are less than the amounts due to the department, the 47255
balance shall be paid to the department within fifteen days after 47256
the ~~owner~~ provider agrees to a settlement. If the department does 47257
not issue its audit report within the ninety-day period, the 47258
department shall release any money held in escrow to the ~~owner~~ 47259
provider. For the purposes of this section, a transfer of 47260
corporate stock, the merger of one corporation into another, or a 47261
consolidation does not constitute a sale. Also, a change of 47262
ownership, lease, or termination of a lease of real or personal 47263
property associated with an intermediate care facility for the 47264
mentally retarded does not constitute a sale if there is no change 47265
in the operator of the facility. 47266

If an intermediate care facility for the mentally retarded is 47267

not sold or its participation is not terminated after notice is
provided to the department under this division, the department
shall order any payments held in escrow released to the ~~facility~~
provider upon receiving written notice from the ~~owner~~ provider
that there will be no sale or termination of participation. After
written notice is received from ~~an intermediate care facility for~~
~~the mentally retarded~~ a provider that a sale or termination of
participation will not take place, the ~~facility~~ provider shall
provide notice to the department at least forty-five days prior to
entering into any contract of sale or terminating participation at
any future time.

(I) The department of job and family services shall pay a
provider for each of the provider's eligible proprietary
intermediate care ~~facility~~ facilities for the mentally retarded a
return on the facility's net equity computed at the rate of one
and one-half times the average of interest rates on special issues
of public debt obligations issued to the federal hospital
insurance trust fund for the cost reporting period. No facility's
return on net equity paid under this division shall exceed one
dollar per patient day.

In calculating the rate for return on net equity, the
department shall use the greater of the facility's inpatient days
during the applicable cost reporting period or the number of
inpatient days the facility would have had during that period if
its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section,
if a provider leases or transfers an interest in a facility to
another provider who is a related party, the related party's
allowable cost of ownership shall include the lesser of the
following:

(a) The annual lease expense or actual cost of ownership,

whichever is applicable; 47299

(b) The reasonable cost to the lessor or provider making the 47300
transfer. 47301

(2) If a provider leases or transfers an interest in a 47302
facility to another provider who is a related party, regardless of 47303
the date of the lease or transfer, the related party's allowable 47304
cost of ownership shall include the annual lease expense or actual 47305
cost of ownership, whichever is applicable, subject to the 47306
limitations specified in divisions (B) to (I) of this section, if 47307
all of the following conditions are met: 47308

(a) The related party is a relative of owner; 47309

(b) In the case of a lease, if the lessor retains any 47310
ownership interest, it is, except as provided in division 47311
(J)(2)(d)(ii) of this section, in only the real property and any 47312
improvements on the real property; 47313

(c) In the case of a transfer, the provider making the 47314
transfer retains, except as provided in division (J)(2)(d)(iv) of 47315
this section, no ownership interest in the facility; 47316

(d) The department of job and family services determines that 47317
the lease or transfer is an arm's length transaction pursuant to 47318
rules ~~the department shall adopt in accordance with Chapter 119-~~ 47319
adopted under section 5111.02 of the Revised Code ~~no later than~~ 47320
~~December 31, 2000~~. The rules shall provide that a lease or 47321
transfer is an arm's length transaction if all of the following, 47322
as applicable, apply: 47323

(i) In the case of a lease, once the lease goes into effect, 47324
the lessor has no direct or indirect interest in the lessee or, 47325
except as provided in division (J)(2)(b) of this section, the 47326
facility itself, including interest as an owner, officer, 47327
director, employee, independent contractor, or consultant, but 47328

excluding interest as a lessor. 47329

(ii) In the case of a lease, the lessor does not reacquire an 47330
interest in the facility except through the exercise of a lessor's 47331
rights in the event of a default. If the lessor reacquires an 47332
interest in the facility in this manner, the department shall 47333
treat the facility as if the lease never occurred when the 47334
department calculates its reimbursement rates for capital costs. 47335

(iii) In the case of a transfer, once the transfer goes into 47336
effect, the provider that made the transfer has no direct or 47337
indirect interest in the provider that acquires the facility or 47338
the facility itself, including interest as an owner, officer, 47339
director, employee, independent contractor, or consultant, but 47340
excluding interest as a creditor. 47341

(iv) In the case of a transfer, the provider that made the 47342
transfer does not reacquire an interest in the facility except 47343
through the exercise of a creditor's rights in the event of a 47344
default. If the provider reacquires an interest in the facility in 47345
this manner, the department shall treat the facility as if the 47346
transfer never occurred when the department calculates its 47347
reimbursement rates for capital costs. 47348

(v) The lease or transfer satisfies any other criteria 47349
specified in the rules. 47350

(e) Except in the case of hardship caused by a catastrophic 47351
event, as determined by the department, or in the case of a lessor 47352
or provider making the transfer who is at least sixty-five years 47353
of age, not less than twenty years have elapsed since, for the 47354
same facility, allowable cost of ownership was determined most 47355
recently under this division. 47356

Sec. 5111.254. (A) The department of job and family services 47357
shall establish initial rates for a nursing facility with a first 47358

date of licensure that is on or after July 1, 2007, including a 47359
facility that replaces one or more existing facilities, or for a 47360
nursing facility with a first date of licensure before that date 47361
that was initially certified for the medicaid program on or after 47362
that date, in the following manner: 47363

(1) The rate for direct care costs shall be determined as 47364
follows: 47365

(a) If there are no cost or resident assessment data as 47366
necessary to calculate a rate under section 5111.231 of the 47367
Revised Code, the rate shall be the median cost per case-mix unit 47368
calculated under division (B)(1) of that section for the relevant 47369
peer group for the calendar year preceding the fiscal year in 47370
which the rate will be paid, multiplied by the median annual 47371
average case-mix score for the peer group for that period and by 47372
the rate of inflation estimated under division (B)(3) of that 47373
section. This rate shall be recalculated to reflect the facility's 47374
actual quarterly average case-mix score, in accordance with that 47375
section, after it submits its first quarterly assessment 47376
information that qualifies for use in calculating a case-mix score 47377
in accordance with rules authorized by division (D) of section 47378
5111.232 of the Revised Code. If the facility's first two 47379
quarterly submissions do not contain assessment information that 47380
qualifies for use in calculating a case-mix score, the department 47381
shall continue to calculate the rate using the median annual 47382
case-mix score for the peer group in lieu of an assigned quarterly 47383
case-mix score. The department shall assign a case-mix score or, 47384
if necessary, a cost per case-mix unit under division (C) of 47385
section 5111.232 of the Revised Code for any subsequent 47386
submissions that do not contain assessment information that 47387
qualifies for use in calculating a case-mix score. 47388

(b) If the facility is a replacement facility and the 47389
facility or facilities that are being replaced are in operation 47390

immediately before the replacement facility opens, the rate shall 47391
be the same as the rate for the replaced facility or facilities, 47392
proportionate to the number of beds in each replaced facility. If 47393
one or more of the replaced facilities is not in operation 47394
immediately before the replacement facility opens, its proportion 47395
shall be determined under division (A)(1)(a) of this section. 47396

(2) The rate for ancillary and support costs shall be the 47397
rate for the facility's peer group as specified in division (E) of 47398
section 5111.24 of the Revised Code. 47399

(3) The rate for capital costs shall be determined under 47400
section 5111.25 of the Revised Code using the greater of actual 47401
inpatient days or an imputed occupancy rate of eighty per cent. 47402

(4) The quality incentive payment shall be the mean payment 47403
specified in division (B) of section 5111.234 of the Revised Code. 47404

(5) The rate for taxes specified in section 5111.242 of the 47405
Revised Code shall be the median of the rate established for those 47406
taxes under that section for the facility's peer group as 47407
specified in division (E) of section 5111.24 of the Revised Code. 47408

(B) The department shall adjust the rates established under 47409
division (A) of this section at both of the following times: 47410

(1) Effective the first day of July, to reflect new rate 47411
calculations for all nursing facilities under sections 5111.20 to 47412
5111.33 of the Revised Code; 47413

(2) Following the provider's submission of the nursing 47414
facility's cost report under division (A)(1)(b) of section 5111.26 47415
of the Revised Code. 47416

The department shall pay the rate adjusted based on the cost 47417
report beginning the first day of the calendar quarter that begins 47418
more than ninety days after the department receives the cost 47419
report. 47420

Sec. 5111.255. (A) The department of job and family services 47421
shall establish initial rates for ~~a nursing facility or an~~ 47422
intermediate care facility for the mentally retarded with a first 47423
date of licensure that is on or after January 1, 1993, including a 47424
facility that replaces one or more existing facilities, or for a 47425
~~nursing facility or an~~ intermediate care facility for the mentally 47426
retarded with a first date of licensure before that date that was 47427
initially certified for the ~~medical assistance~~ medicaid program on 47428
or after that date, in the following manner: 47429

(1) The rate for direct care costs shall be determined as 47430
follows: 47431

(a) If there are no cost or resident assessment data as 47432
necessary to calculate a rate under section 5111.23 of the Revised 47433
Code, the rate shall be the median cost per case-mix unit 47434
calculated under division (B)(1) of that section for the relevant 47435
peer group for the calendar year preceding the fiscal year in 47436
which the rate will be paid, multiplied by the median annual 47437
average case-mix score for the peer group for that period and by 47438
the rate of inflation estimated under division (B)~~(5)~~(3) of that 47439
section. This rate shall be recalculated to reflect the facility's 47440
actual quarterly average case-mix score, in accordance with that 47441
section, after it submits its first quarterly assessment 47442
information that qualifies for use in calculating a case-mix score 47443
in accordance with rules ~~adopted under~~ authorized by division (D) 47444
of section ~~5111.231~~ 5111.232 of the Revised Code. If the 47445
facility's first two quarterly submissions do not contain 47446
assessment information that qualifies for use in calculating a 47447
case-mix score, the department shall continue to calculate the 47448
rate using the median annual case-mix score for the peer group in 47449
lieu of an assigned quarterly case-mix score. The department shall 47450
assign a case-mix score or, if necessary, a cost per case-mix unit 47451

under division (C) of section ~~5111.231~~ 5111.232 of the Revised Code for any subsequent submissions that do not contain assessment information that qualifies for use in calculating a case-mix score.

(b) If the facility is a replacement facility and the facility or facilities that are being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility. If one or more of the replaced facilities is not in operation immediately before the replacement facility opens, its proportion shall be determined under division (A)(1)(a) of this section.

(2) The rate for other protected costs shall be one hundred fifteen per cent of the median rate for ~~the applicable type of facility~~ intermediate care facilities for the mentally retarded calculated for the fiscal year under section 5111.235 of the Revised Code.

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section ~~5111.24~~ or division (B) of section 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section ~~5111.25~~ or 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections ~~5111.23~~ 5111.20 to ~~5111.25~~ and 5111.251 5111.33 of the Revised Code;

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the

facility's cost report under division (A)(1)(b) of section 5111.26 47483
of the Revised Code. 47484

The department shall pay the rate adjusted based on the cost 47485
report beginning the first day of the calendar quarter that begins 47486
more than ninety days after the department receives the cost 47487
report. 47488

Sec. 5111.256. (A) This section applies to a nursing facility 47489
that undergoes a change of provider that the department of job and 47490
family services determines, in accordance with rules adopted under 47491
section 5111.02 of the Revised Code, is an arm's length 47492
transaction. 47493

(B) Except as provided in division (C) of this section, the 47494
department of job and family services shall pay an eligible 47495
nursing facility that undergoes a change of provider the same rate 47496
as the facility received on the day before the change of provider. 47497

(C) The rate for capital costs for a nursing facility that 47498
undergoes a change of provider shall be determined under section 47499
5111.25 of the Revised Code using projected capital costs if the 47500
new provider provides the department the projected capital costs. 47501

(D) The department shall adjust the rates established under 47502
this section at both of the following times: 47503

(1) Effective the first day of July, to reflect new rate 47504
calculations for all nursing facilities under sections 5111.20 to 47505
5111.33 of the Revised Code; 47506

(2) Following the nursing facility's submission of its cost 47507
report under division (A)(1)(b) of section 5111.26 of the Revised 47508
Code. 47509

The department shall pay the rate adjusted based on the cost 47510
report beginning the first day of the calendar quarter that begins 47511
more than ninety days after the department receives the cost 47512

report.

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Sec. 5111.257. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds at a cost of twenty-six thousand dollars or more per bed, the rate for the added, replaced, or renovated beds shall be the same as the rate for the nursing facility's existing beds, except that the department of job and family services shall calculate the rate for capital costs under section 5111.25 of the Revised Code using projected capital costs for the added, replaced, or renovated beds if the provider provides the department the projected capital costs.

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~~Sec. 5111.257~~ 5111.258. (A) Notwithstanding sections ~~5111.23,~~ 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and ~~5111.255~~ 5111.20 to 5111.33 of the Revised Code, the director of job and family services shall adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that establish a methodology for calculating the prospective rates ~~for direct care costs, other protected costs, indirect care costs, and capital costs~~ that will be paid each fiscal year to a provider for each of the provider's eligible nursing facilities and intermediate care facilities for the mentally retarded, and discrete units of the provider's nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable assessment instrument specified in rules ~~adopted under~~ authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or who have diagnoses or special care needs specified in the rules as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established

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under this division may include, but shall not be limited to, any 47544
of the following: 47545

(1) In the case of nursing facilities, facilities and units 47546
of facilities that serve medically fragile pediatric residents, 47547
residents who are dependent on ventilators, or residents who have 47548
severe traumatic brain injury, end-stage Alzheimer's disease, or 47549
end-stage acquired immunodeficiency syndrome; 47550

(2) In the case of intermediate care facilities for the 47551
mentally retarded, facilities and units of facilities that serve 47552
residents who have complex medical conditions or severe behavioral 47553
problems. 47554

The department shall use the methodology established under 47555
this division to pay for services rendered by such facilities and 47556
units after June 30, 1993. 47557

The rules ~~adopted under~~ authorized by this division shall 47558
specify the criteria and procedures the department will apply when 47559
designating facilities and units that qualify for calculation of 47560
rates under this division. The criteria shall include 47561
consideration of whether all of the allowable costs of the 47562
facility or unit would be paid by rates established under sections 47563
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 47564
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 47565
establish a minimum bed size for a facility or unit to qualify to 47566
have its rates established under this division. The criteria shall 47567
not be designed to require that residents be served only in 47568
facilities located in large cities. The methodology established by 47569
the rules shall consider the historical costs of providing care to 47570
the residents of the facilities or units. 47571

The rules may require that a facility designated under this 47572
division or containing a unit designated under this division 47573
receive authorization from the department to admit or retain a 47574

resident to the facility or unit and shall specify the criteria 47575
and procedures the department will apply when granting that 47576
authorization. 47577

Notwithstanding any other provision of sections 5111.20 to 47578
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 47579
facilities or units whose rates are established under this 47580
division shall not be considered in establishing payment rates for 47581
other facilities or units. 47582

(B) The director may adopt rules ~~in accordance with Chapter~~ 47583
~~119-~~ under section 5111.02 of the Revised Code under which the 47584
department, notwithstanding any other provision of sections 47585
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 47586
rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 47587
5111.33 of the Revised Code for a facility that serves a resident 47588
who has a diagnosis or special care need that, in the rules 47589
~~adopted under~~ authorized by division (A) of this section, would 47590
qualify a facility or unit of a facility to have its rate 47591
determined under that division, but who is not in such a unit. The 47592
rules may require that a facility that qualifies for a rate 47593
adjustment under this division receive authorization from the 47594
department to admit or retain a resident who qualifies the 47595
facility for the rate adjustment and shall specify the criteria 47596
and procedures the department will apply when granting that 47597
authorization. 47598

Sec. 5111.26. (A)(1)(a) Except as provided in division 47599
(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 47600
~~care facility for the mentally retarded~~ provider shall file with 47601
the department of job and family services an annual cost report 47602
~~prepared for each of the provider's nursing facilities and~~ 47603
intermediate care facilities for the mentally retarded that 47604
participate in the medicaid program. A provider shall prepare the 47605

reports in accordance with guidelines established by the 47606
department. ~~The~~ A report shall cover a calendar year or the 47607
portion of a calendar year during which the facility participated 47608
in the ~~medical assistance~~ medicaid program. ~~All facilities~~ A 47609
provider shall file the reports within ninety days after the end 47610
of the calendar year. The department, for good cause, may grant a 47611
fourteen-day extension of the time for filing cost reports upon 47612
written request from a ~~facility~~ provider. The director of job and 47613
family services shall prescribe, in rules adopted ~~in accordance~~ 47614
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 47615
cost reporting form and a uniform chart of accounts for the 47616
purpose of cost reporting, and shall distribute cost reporting 47617
forms or computer software for electronic submission of the cost 47618
report to each ~~nursing facility and intermediate care facility for~~ 47619
~~the mentally retarded~~ provider at least sixty days before the 47620
~~facility's~~ reporting date. 47621

(b) ~~A facility for which~~ If rates are for a provider's 47622
nursing facility or intermediate care facility for the mentally 47623
retarded were most recently established under section 5111.254 or 47624
5111.255 of the Revised Code, the provider shall submit a cost 47625
report for that facility no later than ninety days after the end 47626
of the facility's first three full calendar months of operation. A 47627
The provider of a facility that opens after the first day of 47628
October in any calendar year is not required to file a cost report 47629
for that calendar year. If rates for a provider's nursing facility 47630
were most recently established under section 5111.256 of the 47631
Revised Code, the provider shall submit a cost report for that 47632
facility not later than ninety days after the end of the 47633
facility's first three full calendar months of operation after the 47634
change of provider. 47635

(c) If a nursing facility undergoes a change of provider that 47636
the department determines, in accordance with rules adopted under 47637

section 5111.02 of the Revised Code, is not an arms length transaction, the new provider shall file a cost report under division (A)(1)(a) of this section for the facility. The cost report shall cover the portion of the calendar year during which the new provider operated the nursing facility and the portion of the calendar year during which the previous provider operated the nursing facility.

(2) If a ~~nursing facility or intermediate care facility for the mentally retarded~~ provider required to submit ~~a cost reports report for a nursing facility or intermediate care facility for the mentally retarded~~ does not file the ~~reports report~~ within the required time ~~periods~~ period or within fourteen days thereafter if an extension is granted under division (A)(1)(a) of this section, or files an incomplete or inadequate report for the facility, the department shall provide immediate written notice to the ~~facility provider~~ that ~~its~~ the provider agreement for the facility will be terminated in thirty days unless the ~~facility provider~~ submits a complete and adequate cost report for the facility within thirty days. During the thirty-day termination period or any additional time allowed for an appeal of the proposed termination of a provider agreement, the ~~facility provider~~ shall be paid ~~its~~ the facility's then current per resident per day rate, minus two dollars. On July 1, 1994, the department shall adjust the two-dollar reduction to reflect the rate of inflation during the preceding twelve months, as shown in the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. On July 1, 1995, and the first day of July of each year thereafter, the department shall adjust the amount of the reduction in effect during the previous twelve months to reflect the rate of inflation during the preceding twelve months, as shown in the same index.

(B) No ~~nursing facility or intermediate care facility for the~~

~~mentally retarded provider~~ shall report fines paid under sections 47670
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 47671
cost report filed under this section. 47672

(C) The department shall develop an addendum to the cost 47673
report form that a ~~nursing facility or intermediate care facility~~ 47674
~~for the mentally retarded provider~~ may use to set forth costs that 47675
the ~~facility provider~~ believes may be disputed by the department. 47676
Any costs reported by the ~~facility provider~~ on the addendum may be 47677
considered by the department in setting the facility's rate. If 47678
the department does not consider the costs listed on the addendum 47679
in setting the facility's rate, the ~~facility provider~~ may seek 47680
reconsideration of that determination under section 5111.29 of the 47681
Revised Code. If the department subsequently includes the costs 47682
listed in the addendum in the facility's rate, the department 47683
shall pay the ~~facility provider~~ interest at a reasonable rate 47684
established in rules adopted ~~in accordance with Chapter 119.~~ under 47685
section 5111.02 of the Revised Code for the time that the rate 47686
paid excluded the costs. 47687

Sec. 5111.261. Except as otherwise provided in ~~sections~~ 47688
~~5111.262 to~~ section 5111.264 of the Revised Code, the department 47689
of job and family services, in determining whether an intermediate 47690
care facility for the mentally retarded's direct care costs and 47691
indirect care costs are allowable, shall place no limit on 47692
specific categories of reasonable costs other than compensation of 47693
owners, compensation of relatives of owners, compensation of 47694
administrators and costs for resident meals that are prepared and 47695
consumed outside the facility. 47696

Compensation cost limits for owners and relatives of owners 47697
shall be based on compensation costs for individuals who hold 47698
comparable positions but who are not owners or relatives of 47699
owners, as reported on facility cost reports. As used in this 47700

section, "comparable position" means the position that is held by 47701
the owner or the owner's relative, if that position is listed 47702
separately on the cost report form, or if the position is not 47703
listed separately, the group of positions that is listed on the 47704
cost report form and that includes the position held by the owner 47705
or the owner's relative. In the case of an owner or owner's 47706
relative who serves the facility in a capacity such as corporate 47707
officer, proprietor, or partner for which no comparable position 47708
or group of positions is listed on the cost report form, the 47709
compensation cost limit shall be based on civil service 47710
equivalents and shall be specified in rules adopted ~~by the~~ 47711
~~director of job and family services in accordance with Chapter~~ 47712
~~119. under section 5111.02~~ of the Revised Code. 47713

Compensation cost limits for administrators shall be based on 47714
compensation costs for administrators who are not owners or 47715
relatives of owners, as reported on facility cost reports. 47716
Compensation cost limits for administrators of four or more 47717
intermediate care facilities for the mentally retarded shall be 47718
the same as the limits for administrators of ~~nursing facilities or~~ 47719
intermediate care facilities for the mentally retarded with one 47720
hundred fifty or more beds. 47721

~~For nursing facilities, cost limits for resident meals that~~ 47722
~~are prepared and consumed outside the facility shall be based on~~ 47723
~~the statewide average cost of serving and preparing meals in all~~ 47724
~~nursing facilities, as reported on the facility cost reports. For~~ 47725
~~intermediate care facilities for the mentally retarded, cost~~ 47726
~~limits for resident meals that are prepared and consumed outside~~ 47727
~~the facility shall be based on the statewide average cost of~~ 47728
~~serving and preparing meals in all intermediate care facilities~~ 47729
~~for the mentally retarded, as reported on the facility cost~~ 47730
~~reports.~~ 47731

Sec. 5111.262. Except as otherwise provided in sections 47732
5111.263 and 5111.264 of the Revised Code, the department of job 47733
and family services, in determining whether a nursing facility's 47734
direct care costs and ancillary and support costs are allowable, 47735
shall place no limit on specific categories of reasonable costs. 47736

Sec. 5111.263. (A) As used in this section, "covered therapy 47737
services" means physical therapy, occupational therapy, audiology, 47738
and speech therapy services that are provided by appropriately 47739
licensed therapists or therapy assistants and that are covered for 47740
nursing facility residents either by the medicare program 47741
established under Title XVIII of the "Social Security Act," 49 47742
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the ~~medical~~ 47743
~~assistance~~ medicaid program as specified in rules adopted by the 47744
director of job and family services ~~in accordance with Chapter~~ 47745
~~119.~~ under section 5111.02 of the Revised Code. 47746

(B) Except as provided in division (G) of this section, the 47747
costs of therapy are not allowable costs for nursing facilities 47748
for the purpose of determining rates under sections ~~5111.23,~~ 47749
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 47750
~~5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code. 47751

(C) The department of job and family services shall process 47752
no claims for payment under the ~~medical assistance~~ medicaid 47753
program for covered therapy services rendered to a resident of a 47754
nursing facility other than such claims submitted, in accordance 47755
with this section, by a nursing facility that has a valid provider 47756
agreement with the department. 47757

(D) ~~Nursing Providers of nursing facilities that have entered~~ 47758
~~into a provider agreement~~ may bill the department of job and 47759
family services for covered therapy services ~~it provides the~~ 47760
nursing facilities provide to residents of any nursing facility 47761

who are medicaid recipients of ~~the medical assistance program~~ and 47762
not eligible for the medicare program. 47763

(E) The department shall not process any claim for a covered 47764
therapy service provided to a nursing facility resident who is 47765
eligible for the medicare program unless the claim is for a 47766
copayment or deductible or the conditions in division (E)(1) or 47767
(2) of this section apply: 47768

(1) The covered therapy service provided is, under the 47769
federal statutes, regulations, or policies governing the medicare 47770
program, not covered by the medicare program and the service is, 47771
under the provisions of this chapter or the rules adopted under 47772
this chapter, covered by the ~~medical assistance~~ medicaid program. 47773

(2) All of the following apply: 47774

(a) The individual or entity who provided the covered therapy 47775
service was eligible to bill the medicare program for the service. 47776

(b) A complete, accurate, and timely claim was submitted to 47777
the medicare program and the program denied payment for the 47778
service as not medically necessary for the resident. For the 47779
purposes of division (E)(2)(b) of this section, a claim is not 47780
considered to have been denied by the medicare program until 47781
either a denial has been issued following a medicare fair hearing 47782
or six months have elapsed since the request for a fair hearing 47783
was filed. 47784

(c) The facility is required to provide or arrange for the 47785
provision of the service by a licensed therapist or therapy 47786
assistant to be in compliance with federal or state nursing 47787
facility certification requirements for the ~~medical assistance~~ 47788
medicaid program. 47789

(d) The claim for payment for the services under the ~~medical~~ 47790
~~assistance~~ medicaid program is accompanied by documentation that 47791
divisions (E)(2)(b) and (c) of this section apply to the service. 47792

(F) The reimbursement allowed by the department for covered 47793
therapy services provided to nursing facility residents and billed 47794
under division (D) or (E) of this section shall be fifteen per 47795
cent less than the fees it pays for the same services rendered to 47796
hospital outpatients. The director may adopt rules ~~in accordance~~ 47797
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 47798
establishing comparable fees for covered therapy services that are 47799
not included in its schedule of fees paid for services rendered to 47800
hospital outpatients. 47801

(G) A nursing facility's reasonable costs for rehabilitative, 47802
restorative, or maintenance therapy services rendered to facility 47803
residents by nurses or nurse aides, and the facility's overhead 47804
costs to support provision of therapy services provided to nursing 47805
facility residents, are allowable costs for the purposes of 47806
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 47807
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 47808
5111.20 to 5111.33 of the Revised Code. 47809

Sec. 5111.264. Except as provided in section 5111.25 or 47810
~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, 47811
services, and facilities, furnished to a provider by a related 47812
party are includable in the allowable costs of the provider at the 47813
reasonable cost to the related party. 47814

Sec. 5111.265. If one or more medicaid-certified beds are 47815
relocated from one nursing facility to another nursing facility 47816
owned by a different person or government entity and the 47817
application for the certificate of need authorizing the relocation 47818
is filed with the director of health on or after the effective 47819
date of this section, amortization of the cost of acquiring 47820
operating rights for the relocated beds is not an allowable cost 47821
for the purpose of determining the nursing facility's medicaid 47822

reimbursement rate. 47823

Sec. 5111.266. As used in this section, "franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code. 47824
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A provider of a nursing facility filing the facility's cost report with the department of job and family services under section 5111.26 of the Revised Code shall report as a nonreimbursable expense the cost of the nursing facility's franchise permit fee. 47827
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Sec. 5111.27. (A) The department of job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider of whether any of ~~its~~ the reported costs are preliminarily determined not to be allowable, the rate calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of the Revised Code that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the ~~facility~~ provider to verify the calculation and submit additional information. 47832
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(B) The department may conduct an audit, as defined by rule adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, of any cost report and shall notify the ~~nursing facility or intermediate care facility for the mentally retarded~~ provider of its findings. 47845
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Audits shall be conducted by auditors under contract with or 47851

employed by the department. The decision whether to conduct an
audit and the scope of the audit, which may be a desk or field
audit, shall be determined based on prior performance of the
provider and may be based on a risk analysis or other evidence
that gives the department reason to believe that the provider has
reported costs improperly. A desk or field audit may be performed
annually, but is required whenever a provider does not pass the
risk analysis tolerance factors. The department shall issue the
audit report no later than three years after the cost report is
filed, or upon the completion of a desk or field audit on the
report or a report for a subsequent cost reporting period,
whichever is earlier. During the time within which the department
may issue an audit report, the provider may amend the cost report
upon discovery of a material error or material additional
information. The department shall review the amended cost report
for accuracy and notify the provider of its determination.

The department may establish a contract for the auditing of
facilities by outside firms. Each contract entered into by bidding
shall be effective for one to two years. The department shall
establish an audit manual and program which shall require that all
field audits, conducted either pursuant to a contract or by
department employees:

(1) Comply with the applicable rules prescribed pursuant to
Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620
(1935), 42 U.S.C.A. 301, as amended;

(2) Consider generally accepted auditing standards prescribed
by the American institute of certified public accountants;

(3) Include a written summary as to whether the costs
included in the report examined during the audit are allowable and
are presented fairly in accordance with generally accepted
accounting principles and department rules, and whether, in all

material respects, allowable costs are documented, reasonable, and 47883
related to patient care; 47884

(4) Are conducted by accounting firms or auditors who, during 47885
the period of the auditors' professional engagement or employment 47886
and during the period covered by the cost reports, do not have nor 47887
are committed to acquire any direct or indirect financial interest 47888
in the ownership, financing, or operation of a nursing facility or 47889
intermediate care facility for the mentally retarded in this 47890
state; 47891

(5) Are conducted by accounting firms or auditors who, as a 47892
condition of the contract or employment, shall not audit any 47893
facility that has been a client of the firm or auditor; 47894

(6) Are conducted by auditors who are otherwise independent 47895
as determined by the standards of independence established by the 47896
American institute of certified public accountants; 47897

(7) Are completed within the time period specified by the 47898
department; 47899

(8) Provide to the ~~nursing facility or intermediate care~~ 47900
~~facility for the mentally retarded~~ provider complete written 47901
interpretations that explain in detail the application of all 47902
relevant contract provisions, regulations, auditing standards, 47903
rate formulae, and departmental policies, with explanations and 47904
examples, that are sufficient to permit the ~~facility~~ provider to 47905
calculate with reasonable certainty those costs that are allowable 47906
and the rate to which the provider's facility is entitled. 47907

For the purposes of division (B)(4) of this section, 47908
employment of a member of an auditor's family by a nursing 47909
facility or intermediate care facility for the mentally retarded 47910
that the auditor does not review does not constitute a direct or 47911
indirect financial interest in the ownership, financing, or 47912
operation of the facility. 47913

(C) The department, pursuant to rules adopted ~~in accordance~~ 47914
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 47915
conduct an exception review of assessment information submitted 47916
under section ~~5111.231~~ 5111.232 of the Revised Code. The 47917
department may conduct an exception review based on the findings 47918
of a certification survey conducted by the department of health, a 47919
risk analysis, or prior performance of the provider. 47920

Exception reviews shall be conducted at the facility by 47921
appropriate health professionals under contract with or employed 47922
by the department of job and family services. The professionals 47923
may review resident assessment forms and supporting documentation, 47924
conduct interviews, and observe residents to identify any patterns 47925
or trends of inaccurate assessments and resulting inaccurate 47926
case-mix scores. 47927

The rules shall establish an exception review program that 47928
requires that exception reviews do all of the following: 47929

(1) Comply with Titles XVIII and XIX of the "Social Security 47930
Act"; 47931

(2) Provide a written summary that states whether the 47932
resident assessment forms have been completed accurately; 47933

(3) Are conducted by health professionals who, during the 47934
period of their professional engagement or employment with the 47935
department, neither have nor are committed to acquire any direct 47936
or indirect financial interest in the ownership, financing, or 47937
operation of a nursing facility or intermediate care facility for 47938
the mentally retarded in this state; 47939

(4) Are conducted by health professionals who, as a condition 47940
of their engagement or employment with the department, shall not 47941
review any ~~facility~~ provider that has been a client of the 47942
professional. 47943

For the purposes of division (C)(3) of this section, 47944
employment of a member of a health professional's family by a 47945
nursing facility or intermediate care facility for the mentally 47946
retarded that the professional does not review does not constitute 47947
a direct or indirect financial interest in the ownership, 47948
financing, or operation of the facility. 47949

If an exception review is conducted before the effective date 47950
of the rate that is based on the case-mix information subject to 47951
the review and the review results in findings that exceed 47952
tolerance levels specified in the rules adopted under this 47953
division, the department, in accordance with those rules, may use 47954
the findings to recalculate individual resident case-mix scores, 47955
quarterly average facility case-mix scores, and annual average 47956
facility case-mix scores. The department may use the recalculated 47957
quarterly and annual facility average case-mix scores to calculate 47958
the facility's rate for direct care costs for the appropriate 47959
calendar quarter or quarters. 47960

(D) The department shall prepare a written summary of any 47961
audit disallowance or exception review finding that is made after 47962
the effective date of the rate that is based on the cost or 47963
case-mix information. Where the facility provider is pursuing 47964
judicial or administrative remedies in good faith regarding the 47965
disallowance or finding, the department shall not withhold from 47966
the facility's provider's current payments any amounts the 47967
department claims to be due from the facility provider pursuant to 47968
section 5111.28 of the Revised Code. 47969

(E) The department shall not reduce rates calculated under 47970
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on 47971
the basis that the facility provider charges a lower rate to any 47972
resident who is not eligible for the ~~medical assistance~~ medicaid 47973
program. 47974

(F) The department shall adjust the rates calculated under 47975
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to 47976
account for reasonable additional costs that must be incurred by 47977
nursing facilities and intermediate care facilities for the 47978
mentally retarded to comply with requirements of federal or state 47979
statutes, rules, or policies enacted or amended after January 1, 47980
1992, or with orders issued by state or local fire authorities. 47981

Sec. 5111.28. (A) If a provider properly amends its cost 47982
report under section 5111.27 of the Revised Code and the amended 47983
report shows that the provider received a lower rate under the 47984
original cost report than it was entitled to receive, the 47985
department of job and family services shall adjust the provider's 47986
rate prospectively to reflect the corrected information. The 47987
department shall pay the adjusted rate beginning two months after 47988
the first day of the month after the provider files the amended 47989
cost report. If the department finds, from an exception review of 47990
resident assessment information conducted after the effective date 47991
of the rate for direct care costs that is based on the assessment 47992
information, that inaccurate assessment information resulted in 47993
the provider receiving a lower rate than it was entitled to 47994
receive, the department prospectively shall adjust the provider's 47995
rate accordingly and shall make payments using the adjusted rate 47996
for the remainder of the calendar quarter for which the assessment 47997
information is used to determine the rate, beginning one month 47998
after the first day of the month after the exception review is 47999
completed. 48000

(B) If the provider properly amends its cost report under 48001
section 5111.27 of the Revised Code, the department makes a 48002
finding based on an audit under that section, or the department 48003
makes a finding based on an exception review of resident 48004
assessment information conducted under that section after the 48005

effective date of the rate for direct care costs that is based on 48006
the assessment information, any of which results in a 48007
determination that the provider has received a higher rate than it 48008
was entitled to receive, the department shall recalculate the 48009
provider's rate using the revised information. The department 48010
shall apply the recalculated rate to the periods when the provider 48011
received the incorrect rate to determine the amount of the 48012
overpayment. The provider shall refund the amount of the 48013
overpayment. 48014

In addition to requiring a refund under this division, the 48015
department may charge the provider interest at the applicable rate 48016
specified in this division from the time the overpayment was made. 48017

(1) If the overpayment resulted from costs reported for 48018
calendar year 1993, the interest shall be no greater than one and 48019
one-half times the average bank prime rate. 48020

(2) If the overpayment resulted from costs reported for 48021
subsequent calendar years: 48022

(a) The interest shall be no greater than two times the 48023
average bank prime rate if the overpayment was equal to or less 48024
than one per cent of the total medicaid payments to the provider 48025
for the fiscal year for which the incorrect information was used 48026
to establish a rate. 48027

(b) The interest shall be no greater than two and one-half 48028
times the current average bank prime rate if the overpayment was 48029
greater than one per cent of the total medicaid payments to the 48030
provider for the fiscal year for which the incorrect information 48031
was used to establish a rate. 48032

(C) The department also may impose the following penalties: 48033

(1) If a provider does not furnish invoices or other 48034
documentation that the department requests during an audit within 48035

sixty days after the request, no more than the greater of one
thousand dollars per audit or twenty-five per cent of the
cumulative amount by which the costs for which documentation was
not furnished increased the total medicaid payments to the
provider during the fiscal year for which the costs were used to
establish a rate;

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(2) If an owner fails to provide notice of sale of the
facility or voluntary termination of participation in the ~~medical
assistance~~ medicaid program, as required by section 5111.25 or
5111.251 of the Revised Code, no more than the current average
bank prime rate plus four per cent of the last two monthly
payments.

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(D) If the provider continues to participate in the ~~medical
assistance~~ medicaid program, the department shall deduct any
amount that the provider is required to refund under this section,
and the amount of any interest charged or penalty imposed under
this section, from the next available payment from the department
to the provider. The department and the provider may enter into an
agreement under which the amount, together with interest, is
deducted in installments from payments from the department to the
provider.

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(E) The department shall transmit refunds and penalties to
the treasurer of state for deposit in the general revenue fund.

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(F) For the purpose of this section, the department shall
determine the average bank prime rate using statistical release
H.15, "selected interest rates," a weekly publication of the
federal reserve board, or any successor publication. If
statistical release H.15, or its successor, ceases to contain the
bank prime rate information or ceases to be published, the
department shall request a written statement of the average bank
prime rate from the federal reserve bank of Cleveland or the

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federal reserve board.

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Sec. 5111.29. (A) The director of job and family services shall adopt rules ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code that establish a process under which a ~~nursing facility or intermediate care facility for the mentally retarded~~ provider, or a group or association of ~~facilities~~ providers, may seek reconsideration of rates established under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment information conducted under section 5111.27 of the Revised Code.

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(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a ~~facility~~ provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules adopted under ~~those sections~~ section 5111.02 of the Revised Code. The rules shall permit a ~~facility~~ provider, group, or association to submit written arguments or other materials that support its position. The rules shall specify time frames within which the ~~facility~~ provider, group, or association and the department must act. If the department determines, as a result of the rate reconsideration, that the rate established for one or more facilities of a provider is less than the rate to which ~~it~~ the facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the ~~facility~~ provider the difference between the amount ~~it~~ the provider was paid for that period ~~for the facility~~ and the amount ~~it~~ the provider should have been paid for the facility.

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(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase a facility's rate as calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the provider of the facility demonstrates that ~~its~~ the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if ~~its~~ the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate, including any efficiency or quality incentive and return on equity payment. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. ~~In the case of nursing facilities, the~~ The rules shall provide that the extreme circumstances include ~~increased security costs for an inner-city nursing facility and an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program but do not include a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health~~ natural disasters. In the case of intermediate care facilities for the mentally retarded, the rules shall provide that the extreme circumstances include, but are not limited to, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner-city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code for specific cost centers. Any rate increase granted

under division (A)(2) of this section shall take effect on the 48131
first day of the first month after the department receives the 48132
request. 48133

(3) The rules shall provide that the department, through the 48134
rate reconsideration process, may increase ~~a facility's~~ an 48135
intermediate care facility for the mentally retarded's rate as 48136
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 48137
the Revised Code if the department, in ~~its~~ the department's sole 48138
discretion, determines that the rate as calculated under those 48139
sections works an extreme hardship on the facility. 48140

(4) The rules shall provide that when beds certified for the 48141
~~medical assistance~~ medicaid program are added to an existing 48142
intermediate care facility for the mentally retarded, replaced at 48143
the same site, or subject to a change of ownership or lease, the 48144
department, through the rate reconsideration process, shall 48145
increase the ~~facility's~~ intermediate care facility for the 48146
mentally retarded's rate for capital costs proportionately, as 48147
limited by any applicable limitation under section ~~5111.25~~ or 48148
5111.251 of the Revised Code, to account for the costs of the beds 48149
that are added, replaced, or subject to a change of ownership or 48150
lease. The department shall make this increase one month after the 48151
first day of the month after the department receives sufficient 48152
documentation of the costs. Any rate increase granted under 48153
division (A)(4) of this section after June 30, 1993, shall remain 48154
in effect until the effective date of a rate calculated under 48155
section ~~5111.25~~ or 5111.251 of the Revised Code that includes 48156
costs incurred for a full calendar year for the bed addition, bed 48157
replacement, or change of ownership or lease. The facility shall 48158
report double accumulated depreciation in an amount equal to the 48159
depreciation included in the rate adjustment on its cost report 48160
for the first year of operation. During the term of any loan used 48161
to finance a project for which a rate adjustment is granted under 48162

division (A)(4) of this section, if the facility is operated by 48163
the same provider, the ~~facility~~ provider shall subtract from the 48164
interest costs it reports on its cost report an amount equal to 48165
the difference between the following: 48166

(a) The actual, allowable interest costs for the loan during 48167
the calendar year for which the costs are being reported; 48168

(b) The actual, allowable interest costs attributable to the 48169
loan that were used to calculate the rates paid to the provider 48170
for the facility during the same calendar year. 48171

(5) The department's decision at the conclusion of the 48172
reconsideration process shall not be subject to any administrative 48173
proceedings under Chapter 119. or any other provision of the 48174
Revised Code. 48175

(B) Any audit disallowance that the department makes as the 48176
result of an audit under section 5111.27 of the Revised Code, any 48177
adverse finding that results from an exception review of resident 48178
assessment information conducted under that section after the 48179
effective date of the facility's rate that is based on the 48180
assessment information, and any penalty the department imposes 48181
under division (C) of section 5111.28 of the Revised Code shall be 48182
subject to an adjudication conducted in accordance with Chapter 48183
119. of the Revised Code. 48184

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 48185
5111.33 of the Revised Code, the department of job and family 48186
services may compute the rate for intermediate care facilities for 48187
the mentally retarded operated by the department of mental 48188
retardation and developmental disabilities or the department of 48189
mental health according to the reasonable cost principles of Title 48190
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 48191
U.S.C.A. 1395, as amended. 48192

Sec. 5111.30. The department of job and family services shall 48193
terminate the provider agreement with a ~~nursing facility or~~ 48194
~~intermediate care facility for the mentally retarded~~ provider that 48195
does not comply with the requirements of section 3721.071 of the 48196
Revised Code for the installation of fire extinguishing and fire 48197
alarm systems. 48198

Sec. 5111.31. (A) Every provider agreement with the provider 48199
of a nursing facility or intermediate care facility for the 48200
mentally retarded shall: 48201

(1) Prohibit the ~~facility~~ provider from failing or refusing 48202
to retain as a patient any person because the person is, becomes, 48203
or may, as a patient in the facility, become a medicaid recipient 48204
~~of assistance under the medical assistance program~~. For the 48205
purposes of this division, a medicaid recipient ~~of medical~~ 48206
~~assistance~~ who is a patient in a facility shall be considered a 48207
patient in the facility during any hospital stays totaling less 48208
than twenty-five days during any twelve-month period. Recipients 48209
who have been identified by the department of job and family 48210
services or its designee as requiring the level of care of an 48211
intermediate care facility for the mentally retarded shall not be 48212
subject to a maximum period of absences during which they are 48213
considered patients if prior authorization of the department for 48214
visits with relatives and friends and participation in therapeutic 48215
programs is obtained under rules adopted under section 5111.02 of 48216
the Revised Code. 48217

(2) ~~Include~~ Except as provided by division (B)(1) of this 48218
section, include any part of the facility that meets standards for 48219
certification of compliance with federal and state laws and rules 48220
for participation in the ~~medical assistance~~ medicaid program, 48221
~~except that nursing facilities that, during the period beginning~~ 48222

~~July 1, 1987, and ending July 1, 1993, added beds licensed as 48223
nursing home beds under Chapter 3721. of the Revised Code are not 48224
required to include those beds under a provider agreement unless 48225
otherwise required by federal law. Once added to the provider 48226
agreement, however, those nursing home beds may not be removed 48227
unless the facility withdraws from the medical assistance program 48228
in its entirety. 48229~~

(3) Prohibit the facility provider from discriminating 48230
against any patient on the basis of race, color, sex, creed, or 48231
national origin. 48232

(4) Except as otherwise prohibited under section 5111.55 of 48233
the Revised Code, prohibit the facility provider from failing or 48234
refusing to accept a patient because the patient is, becomes, or 48235
may, as a patient in the facility, become a medicaid recipient ~~of 48236
assistance under the medical assistance program~~ if less than 48237
eighty per cent of the patients in the facility are medicaid 48238
recipients ~~of medical assistance.~~ 48239

(B)(1) Except as provided by division (B)(2) of this section, 48240
the following are not required to be included in a provider 48241
agreement unless otherwise required by federal law: 48242

(a) Beds added during the period beginning July 1, 1987, and 48243
ending July 1, 1993, to a nursing home licensed under Chapter 48244
3721. of the Revised Code; 48245

(b) Beds in an intermediate care facility for the mentally 48246
retarded that are designated for respite care under a medicaid 48247
waiver component operated pursuant to a waiver sought under 48248
section 5111.87 of the Revised Code. 48249

(2) If a provider chooses to include a bed specified in 48250
division (B)(1) of this section in a provider agreement, the bed 48251
may not be removed from the provider agreement unless the provider 48252
withdraws the facility in which the bed is located from the 48253

medicaid program.

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~~(C)~~ Nothing in this section shall bar ~~any a provider that is~~
~~a religious organization operating a~~ religious or denominational
nursing facility or intermediate care facility for the mentally
retarded ~~that is operated, supervised, or controlled by a~~
~~religious organization~~ from giving preference to persons of the
same religion or denomination. Nothing in this section shall bar
any ~~facility~~ provider from giving preference to persons with whom
~~it~~ the provider has contracted to provide continuing care.

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~~(C)~~(D) Nothing in this section shall bar ~~any~~ the provider of
a county home organized under Chapter 5155. of the Revised Code
from admitting residents exclusively from the county in which the
county home is located.

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~~(D)~~(E) No provider of a nursing facility or intermediate care
facility for the mentally retarded ~~with~~ for which a provider
agreement is in effect shall violate the provider contract
obligations imposed under this section.

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~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section
shall bar ~~any nursing facility or intermediate care facility for~~
~~the mentally retarded~~ a provider from retaining patients who have
resided in the provider's facility for not less than one year as
private pay patients and who subsequently become medicaid
recipients ~~of assistance under the medicaid program~~, but refusing
to accept as a patient any person who is or may, as a patient in
the facility, become a medicaid recipient ~~of assistance under the~~
~~medicaid program~~, if all of the following apply:

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(1) The ~~facility~~ provider does not refuse to retain any
patient who has resided in the provider's facility for not less
than one year as a private pay patient because the patient becomes
a medicaid recipient ~~of assistance under the medicaid program~~,
except as necessary to comply with division ~~(E)~~(F)(2) of this

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section;	48285
(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility;	48286 48287 48288
(3) On July 1, 1980, all the patients in the facility were private pay patients.	48289 48290
Sec. 5111.32. Any patient has a cause of action against <u>the provider of</u> a nursing facility or intermediate care facility for the mentally retarded for breach of the provider agreement obligations or other duties imposed by section 5111.31 of the Revised Code. The action may be commenced by the patient, or on his <u>the patient's</u> behalf by his <u>the patient's</u> sponsor or a residents' rights advocate, as either is defined under section 3721.10 of the Revised Code, by the filing of a civil action in the court of common pleas of the county in which the facility is located, or in the court of common pleas of Franklin county.	48291 48292 48293 48294 48295 48296 48297 48298 48299 48300
If the court finds that a breach of the provider agreement obligations imposed by section 5111.31 of the Revised Code has occurred, the court may enjoin the facility <u>provider</u> from engaging in the practice, order such affirmative relief as may be necessary, and award to the patient and a person or public agency that brings an action on behalf of a patient actual damages, costs, and reasonable attorney's fees.	48301 48302 48303 48304 48305 48306 48307
Sec. 5111.33. Reimbursement to nursing facilities and intermediate care facilities for the mentally retarded <u>a provider</u> under sections 5111.20 to 5111.32 of the Revised Code shall include payments to facilities <u>the provider</u> , at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the <u>provider's nursing facility or intermediate care facility for the</u>	48308 48309 48310 48311 48312 48313 48314

mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 48315
5111.33 of the Revised Code for the fiscal year for which the cost 48316
of services is reimbursed, to reserve a bed for a recipient during 48317
a temporary absence under conditions prescribed by the department, 48318
to include hospitalization for an acute condition, visits with 48319
relatives and friends, and participation in therapeutic programs 48320
outside the facility, when the resident's plan of care provides 48321
for such absence and federal participation in the payments is 48322
available. The maximum period during which payments may be made to 48323
reserve a bed shall not exceed the maximum period specified under 48324
federal regulations, and shall not be more than thirty days during 48325
any calendar year for hospital stays, visits with relatives and 48326
friends, and participation in therapeutic programs. Recipients who 48327
have been identified by the department as requiring the level of 48328
care of an intermediate care facility for the mentally retarded 48329
shall not be subject to a maximum period during which payments may 48330
be made to reserve a bed if prior authorization of the department 48331
is obtained for hospital stays, visits with relatives and friends, 48332
and participation in therapeutic programs. The director of job and 48333
family services shall adopt rules under ~~division (B)~~ of section 48334
5111.02 of the Revised Code establishing conditions under which 48335
prior authorization may be obtained. 48336

Sec. 5111.62. The proceeds of all fines, including interest, 48337
collected under sections 5111.35 to 5111.62 of the Revised Code 48338
shall be deposited in the state treasury to the credit of the 48339
residents protection fund, which is hereby created. ~~Moneys~~ The 48340
proceeds of all fines, including interest, collected under section 48341
173.42 of the Revised Code shall be deposited in the state 48342
treasury to the credit of the residents protection fund. 48343

Moneys in the fund shall be used for the protection of the 48344
health or property of residents of nursing facilities in which the 48345
department of health finds deficiencies, including payment for the 48346

costs of relocation of residents to other facilities, maintenance 48347
of operation of a facility pending correction of deficiencies or 48348
closure, and reimbursement of residents for the loss of money 48349
managed by the facility under section 3721.15 of the Revised Code. 48350
The 48351

The fund shall be maintained and administered by the 48352
department of job and family services under rules developed in 48353
consultation with the departments of health and aging and adopted 48354
by the director of job and family services under Chapter 119. of 48355
the Revised Code. 48356

Sec. 5111.85. (A) As used in this section, "medicaid waiver 48357
component" means a component of the medicaid program authorized by 48358
a waiver granted by the United States department of health and 48359
human services under section 1115 or 1915 of the "Social Security 48360
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid 48361
waiver component" does not include a care management system 48362
established under section 5111.16 of the Revised Code. 48363

(B) The director of job and family services may adopt rules 48364
under Chapter 119. of the Revised Code governing medicaid waiver 48365
components that establish all of the following: 48366

(1) Eligibility requirements for the medicaid waiver 48367
components; 48368

(2) The type, amount, duration, and scope of services the 48369
medicaid waiver components provide; 48370

(3) The conditions under which the medicaid waiver components 48371
cover services; 48372

(4) The amount the medicaid waiver components pay for 48373
services or the method by which the amount is determined; 48374

(5) The manner in which the medicaid waiver components pay 48375
for services; 48376

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component; 48377
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(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. 48379
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(8) Other policies necessary for the efficient administration of the medicaid waiver components. 48385
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(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component. 48387
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~~(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.~~ 48391
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Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 of the Revised Code: 48402
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"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political 48404
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subdivision contracts with the department under section 5111.91 of 48407
the Revised Code to administer the component, that state agency or 48408
political subdivision. 48409

"Home and community-based services medicaid waiver component" 48410
means a medicaid waiver component as defined in section 5111.85 of 48411
the Revised Code under which home and community-based services are 48412
provided as an alternative to hospital, nursing facility, or 48413
intermediate care facility for the mentally retarded services. 48414

"Hospital" has the same meaning as in section 3727.01 of the 48415
Revised Code. 48416

"Intermediate care facility for the mentally retarded" has 48417
the same meaning as in section 5111.20 of the Revised Code. 48418

"Level of care determination" means a determination of 48419
whether an individual needs the level of care provided by a 48420
hospital, nursing facility, or intermediate care facility for the 48421
mentally retarded and whether the individual, if determined to 48422
need that level of care, would receive hospital, nursing facility, 48423
or intermediate care facility for the mentally retarded services 48424
if not for a home and community-based services medicaid waiver 48425
component. 48426

"Nursing facility" has the same meaning as in section 5111.20 48427
of the Revised Code. 48428

"Skilled nursing facility" means a facility certified as a 48429
skilled nursing facility under Title XVIII of the "Social Security 48430
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 48431

(B) The following requirements apply to each home and 48432
community-based services medicaid waiver component: 48433

(1) Only an individual who qualifies for a component shall 48434
receive that component's services. 48435

(2) A level of care determination shall be made as part of 48436

the process of determining whether an individual qualifies for a 48437
component and shall be made each year after the initial 48438
determination if, during such a subsequent year, the 48439
administrative agency determines there is a reasonable indication 48440
that the individual's needs have changed. 48441

(3) A written plan of care or individual service plan based 48442
on an individual assessment of the services that an individual 48443
needs to avoid needing hospital, nursing facility, or intermediate 48444
care facility for the mentally retarded services shall be created 48445
for each individual determined eligible for a component. 48446

(4) Each individual determined eligible for a component shall 48447
receive that component's services in accordance with the 48448
individual's level of care determination and written plan of care 48449
or individual service plan. 48450

(5) No individual may receive services under a component 48451
while the individual is a hospital inpatient or resident of a 48452
skilled nursing facility, nursing facility, or intermediate care 48453
facility for the mentally retarded. 48454

(6) No individual may receive prevocational, educational, or 48455
supported employment services under a component if the individual 48456
is eligible for such services that are funded with federal funds 48457
provided under 29 U.S.C. 730 or the "Individuals with Disabilities 48458
Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 48459

(7) Safeguards shall be taken to protect the health and 48460
welfare of individuals receiving services under a component, 48461
including safeguards established in rules adopted under section 48462
5111.85 of the Revised Code and safeguards established by 48463
licensing and certification requirements that are applicable to 48464
the providers of that component's services. 48465

(8) No services may be provided under a component by a 48466
provider that is subject to standards that 42 U.S.C. 1382e(e)(1) 48467

requires be established if the provider fails to comply with the 48468
standards applicable to the provider. 48469

(9) Individuals determined to be eligible for a component, or 48470
such individuals' representatives, shall be informed of that 48471
component's services, including any choices that the individual or 48472
representative may make regarding the component's services, and 48473
given the choice of either receiving services under that component 48474
or, as appropriate, hospital, nursing facility, or intermediate 48475
care facility for the mentally retarded services. 48476

Sec. 5111.852. The department of job and family services may 48477
review and approve, modify, or deny written plans of care and 48478
individual service plans that section 5111.851 of the Revised Code 48479
requires be created for individuals determined eligible for a home 48480
and community-based services medicaid waiver component. If a state 48481
agency or political subdivision contracts with the department 48482
under section 5111.91 of the Revised Code to administer a home and 48483
community-based services medicaid waiver component and approves, 48484
modifies, or denies a written plan of care or individual service 48485
plan pursuant to the agency's or subdivision's administration of 48486
the component, the department may review the agency's or 48487
subdivision's approval, modification, or denial and order the 48488
agency or subdivision to reverse or modify the approval, 48489
modification, or denial. The state agency or political subdivision 48490
shall comply with the department's order. 48491

The department of job and family services shall be granted 48492
full and immediate access to any records the department needs to 48493
implement its duties under this section. 48494

Sec. 5111.853. Each administrative agency shall maintain, for 48495
a period of time the department of job and family services shall 48496
specify, financial records documenting the costs of services 48497

provided under the home and community-based services medicaid waiver components that the agency administers, including records of independent audits. The administrative agency shall make the financial records available on request to the United States secretary of health and human services, United States comptroller general, and their designees. 48498
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Sec. 5111.854. Each administrative agency is financially accountable for funds expended for services provided under the home and community-based services medicaid waiver components that the agency administers. 48504
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Sec. 5111.855. Each state agency and political subdivision that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code to administer a home and community-based services medicaid waiver component, or one or more aspects of such a component, shall provide the department a written assurance that the agency or subdivision will not violate any of the requirements of sections 5111.85 to 5111.854 of the Revised Code. 48508
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Sec. 5111.97 5111.86. (A) As used in this section: 48516

(1) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 48517
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(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 48519
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(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 48521
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(B) The director of job and family services may submit a request requests to the United States secretary of health and human services pursuant to section 1915 of the "Social Security 48523
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Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 48526
waivers of federal medicaid requirements that would otherwise be 48527
violated in the creation and implementation of two or more 48528
medicaid waiver components under which home and community-based 48529
services ~~programs to replace the Ohio home care program being~~ 48530
~~operated pursuant to rules adopted under sections 5111.01 and~~ 48531
~~5111.02 of the Revised Code and a medicaid waiver granted prior to~~ 48532
~~the effective date of this section~~ are provided to eligible 48533
individuals who need the level of care provided by a nursing 48534
facility or hospital. In the ~~request~~ requests, the director may 48535
specify the following: 48536

(1) ~~That one of the replacement programs will provide home~~ 48537
~~and community based services to individuals in need of nursing~~ 48538
~~facility care, including individuals enrolled in the Ohio home~~ 48539
~~care program;~~ 48540

(2) ~~That the other replacement program will provide services~~ 48541
~~to individuals in need of hospital care, including individuals~~ 48542
~~enrolled in the Ohio home care program;~~ 48543

(3) ~~That there will be a~~ The maximum number of individuals 48544
who may be enrolled in the ~~replacement programs in addition to the~~ 48545
~~number of individuals to be transferred from the Ohio home care~~ 48546
~~program~~ each of the medicaid waiver components included in the 48547
requests; 48548

(4) ~~That there will be a~~ (2) The maximum amount the 48549
~~department medicaid program~~ may expend each year for each 48550
individual enrolled in the ~~replacement programs~~ medicaid waiver 48551
components; 48552

(5) ~~That there will be a~~ (3) The maximum aggregate amount the 48553
~~department medicaid program~~ may expend each year for all 48554
individuals enrolled in the ~~replacement programs~~ medicaid waiver 48555
components; 48556

~~(6)(4)~~ Any other ~~requirement~~ requirements the director 48557
selects for the ~~replacement programs~~ medicaid waiver components. 48558

~~(B)(C)~~ If the secretary ~~grants~~ approves the medicaid waivers 48559
requested under this section, the director may create and 48560
implement the ~~replacement programs~~ medicaid waiver components in 48561
accordance with the provisions of the approved waivers ~~granted~~. 48562
The department of job and family services shall administer the 48563
~~replacement programs~~ medicaid waiver components. 48564

~~As the replacement programs are implemented, the director~~ 48565
~~shall reduce the maximum number of individuals who may be enrolled~~ 48566
~~in the Ohio home care program by the number of individuals who are~~ 48567
~~transferred to the replacement programs. When all individuals who~~ 48568
~~are eligible to be transferred to the replacement programs have~~ 48569
~~been transferred, the director may submit to the secretary an~~ 48570
~~amendment to the state medicaid plan to provide for the~~ 48571
~~elimination of the Ohio home care program.~~ 48572

To the extent necessary for the efficient and economical 48573
administration of medicaid waiver components, the director may 48574
transfer an individual enrolled in a medicaid waiver component 48575
that the United States secretary of health and human services 48576
approved before the effective date of this amendment and is 48577
administered by the department to a medicaid waiver component 48578
created under this section if the individual is eligible for the 48579
medicaid waiver component created under this section and the 48580
transfer does not jeopardize the individual's health or safety. 48581

After the first of any medicaid waiver components created 48582
under this section begins to enroll eligible individuals, the 48583
director may submit to the United States secretary of health and 48584
human services an amendment to the medicaid waiver authorizing the 48585
Ohio home care program that provides for the department to cease 48586
enrolling additional individuals in the Ohio home care program. If 48587

the secretary approves the amendment, the director may cease to 48588
enroll additional individuals in the Ohio home care program. 48589

Sec. 5111.87. (A) As used in this section and section 48590
5111.871 of the Revised Code, ~~"intermediate;~~ 48591

(1) "Intermediate care facility for the mentally retarded" 48592
has the same meaning as in section 5111.20 of the Revised Code. 48593

(2) "Medicaid waiver component" has the same meaning as in 48594
section 5111.85 of the Revised Code. 48595

(B) The director of job and family services may apply to the 48596
United States secretary of health and human services for both of 48597
the following: 48598

(1) One or more medicaid ~~waivers~~ waiver components under 48599
which home and community-based services are provided to 48600
individuals with mental retardation or other developmental 48601
disability as an alternative to placement in an intermediate care 48602
facility for the mentally retarded; 48603

(2) One or more medicaid ~~waivers~~ waiver components under 48604
which home and community-based services are provided in the form 48605
of ~~either or both~~ any of the following: 48606

(a) Early intervention and supportive services for children 48607
under three years of age ~~that are provided or arranged by county~~ 48608
~~boards of mental retardation and who have~~ developmental delays or 48609
disabilities the director determines are significant; 48610

(b) Therapeutic services for children who have autism ~~and are~~ 48611
~~under six years of age at the time of enrollment;~~ 48612

(c) Specialized habilitative services for individuals who are 48613
eighteen years of age or older and have autism. 48614

(C) No medicaid waiver component authorized by division 48615
(B)(2)(b) or (c) of this section shall provide services that are 48616

available under another medicaid waiver component. No medicaid 48617
waiver component authorized by division (B)(2)(b) of this section 48618
shall provide services to an individual that the individual is 48619
eligible to receive through an individualized education program as 48620
defined in section 3323.01 of the Revised Code. 48621

(D) The director of mental retardation and developmental 48622
disabilities or director of health may request that the director 48623
of job and family services apply for one or more medicaid waivers 48624
under this section. 48625

~~(D)~~(E) Before applying for a waiver under this section, the 48626
director of job and family services shall seek, accept, and 48627
consider public comments. 48628

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 48629
the Revised Code: 48630

"Assisted living program" means the medicaid waiver component 48631
for which the director of job and family services is authorized by 48632
this section to request a medicaid waiver. 48633

"Assisted living services" means the following home and 48634
community-based services: personal care, homemaker, chore, 48635
attendant care, companion, medication oversight, and therapeutic 48636
social and recreational programming. 48637

"Medicaid waiver component" has the same meaning as in 48638
section 5111.85 of the Revised Code. 48639

"Nursing facility" has the same meaning as in section 5111.20 48640
of the Revised Code. 48641

"Residential care facility" has the same meaning as in 48642
section 3721.01 of the Revised Code. 48643

(B) The director of job and family services may submit a 48644
request to the United States secretary of health and human 48645
services under 42 U.S.C. 1396n to obtain a waiver of federal 48646

medicaid requirements that would otherwise be violated in the 48647
creation and implementation of a program under which assisted 48648
living services are provided to not more than one thousand 48649
residents of residential care facilities who meet the program's 48650
eligibility requirements established under section 5111.891 of the 48651
Revised Code. 48652

If the secretary approves the medicaid waiver requested under 48653
this section and the director of budget and management approves 48654
the contract, the department of job and family services shall 48655
enter into a contract with the department of aging under section 48656
5111.91 of the Revised Code that provides for the department of 48657
aging to administer the assisted living program. The contract 48658
shall include an estimate of the program's costs. 48659

The director of job and family services may adopt rules under 48660
section 5111.85 of the Revised Code regarding the assisted living 48661
program. The director of aging may adopt rules under Chapter 119. 48662
of the Revised Code regarding the program. The rules the director 48663
of aging adopts shall concern issues not addressed by the rules 48664
for the program adopted by the director of job and family 48665
services. 48666

Sec. 5111.891. To be eligible for the assisted living 48667
program, an individual must meet all of the following 48668
requirements: 48669

(A) Need an intermediate level of care as determined under 48670
rule 5101:3-3-06 of the Administrative Code; 48671

(B) At the time the individual applies for the assisted 48672
living program, be one of the following: 48673

(1) A nursing facility resident seeking to move to a 48674
residential care facility; 48675

(2) A participant of any of the following medicaid waiver 48676

components who would move to a nursing facility if not for the 48677
assisted living program: 48678

(a) The PASSPORT program created under section 173.40 of the 48679
Revised Code; 48680

(b) The medicaid waiver component called the choices program 48681
that the department of aging administers; 48682

(c) A medicaid waiver component that the department of job 48683
and family services administers. 48684

(C) At the time the individual receives assisted living 48685
services under the assisted living program, reside in either of 48686
the following: 48687

(1) A residential care facility that is licensed under 48688
Chapter 3721. of the Revised Code on the effective date of this 48689
section and to which either of the following applies: 48690

(a) It consists of beds that previously were licensed as 48691
nursing home beds under Chapter 3721. of the Revised Code and were 48692
converted to residential care facility beds for the purpose of the 48693
facility participating in the assisted living program. 48694

(b) It is a part of a system of continuing care that is 48695
operated in conjunction with a nursing facility and one or more 48696
other facilities that provide a less intensive level of care, such 48697
as an adult care facility licensed under Chapter 3722. of the 48698
Revised Code or an independent living arrangement, and provides 48699
residents a contractual right of admission to the nursing 48700
facility. 48701

(2) A residential care facility that is licensed under 48702
Chapter 3721. of the Revised Code and owned or operated by a 48703
metropolitan housing authority that has a contract with the United 48704
States department of housing and urban development to receive an 48705
operating subsidy or rental assistance for the residents of the 48706

<u>facility.</u>	48707
<u>(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code.</u>	48708 48709 48710
<u>Sec. 5111.892. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following:</u>	48711 48712 48713 48714
<u>(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;</u>	48715 48716 48717
<u>(B) Provide supervision services for those individuals;</u>	48718
<u>(C) Help keep the individuals safe and secure.</u>	48719
<u>Sec. 5111.893. If the United States secretary of health and human services approves a medicaid waiver authorizing the assisted living program, the director of aging shall contract with a person or government entity to evaluate the program's cost effectiveness. The director shall provide the results of the evaluation to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives not later than June 30, 2007.</u>	48720 48721 48722 48723 48724 48725 48726 48727
<u>Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:</u>	48728 48729 48730 48731 48732 48733
<u>(A) In the case of a contract with the department of mental</u>	48734

health, that section 5111.912 of the Revised Code be complied 48735
with; 48736

(B) In the case of a contract with the department of alcohol 48737
and drug addiction services, that section 5111.913 of the Revised 48738
Code be complied with; 48739

(C) How providers will be paid for providing the alcohol, 48740
drug addiction, and mental health services covered by medicaid 48741
under the federal option of covering rehabilitative services; 48742

(D) A process for making payments to the providers based on a 48743
provider-specific fixed-rate reimbursement methodology; 48744

(E) The department of mental health's or department of 48745
alcohol and drug addiction services' responsibilities for 48746
reimbursing providers, ~~including;~~ 48747

(F) Procedures for program oversight and quality assurance, 48748
including procedures for utilization review, utilization 48749
management, and care management. 48750

Sec. 5111.914. (A) As used in this section, "provider" has 48751
the same meaning as in section 5111.06 of the Revised Code. 48752

(B) If a state agency that enters into a contract with the 48753
department of job and family services under section 5111.91 of the 48754
Revised Code identifies that a medicaid overpayment has been made 48755
to a provider, the state agency may commence actions to recover 48756
the overpayment on behalf of the department. 48757

(C) In recovering an overpayment pursuant to this section, a 48758
state agency shall comply with the following procedures: 48759

(1) The state agency shall attempt to recover the overpayment 48760
by notifying the provider of the overpayment and requesting 48761
voluntary repayment. Not later than five business days after 48762
notifying the provider, the state agency shall notify the 48763

department in writing of the overpayment. The state agency may 48764
negotiate a settlement of the overpayment and notify the 48765
department of the settlement. A settlement negotiated by the state 48766
agency is not valid and shall not be implemented until the 48767
department has given its written approval of the settlement. 48768

(2) If the state agency is unable to obtain voluntary 48769
repayment of an overpayment, the agency shall give the provider 48770
notice of an opportunity for a hearing in accordance with Chapter 48771
119. of the Revised Code. If the provider timely requests a 48772
hearing in accordance with section 119.07 of the Revised Code, the 48773
state agency shall conduct the hearing to determine the legal and 48774
factual validity of the overpayment. On completion of the hearing, 48775
the state agency shall submit its hearing officer's report and 48776
recommendation and the complete record of proceedings, including 48777
all transcripts, to the director of job and family services for 48778
final adjudication. The director may issue a final adjudication 48779
order in accordance with Chapter 119. of the Revised Code. The 48780
state agency shall pay any attorney's fees imposed under section 48781
119.092 of the Revised Code. The department of job and family 48782
services shall pay any attorney's fees imposed under section 48783
2335.39 of the Revised Code. 48784

(D) In any action taken by a state agency under this section 48785
that requires the agency to give notice of an opportunity for a 48786
hearing in accordance with Chapter 119. of the Revised Code, if 48787
the agency gives notice of the opportunity for a hearing but the 48788
provider subject to the notice does not request a hearing or 48789
timely request a hearing in accordance with section 119.07 of the 48790
Revised Code, the agency is not required to hold a hearing. The 48791
agency may request that the director of job and family services 48792
issue a final adjudication order in accordance with Chapter 119. 48793
of the Revised Code. 48794

(E) This section does not preclude the department of job and 48795

family services from adjudicating a final fiscal audit under 48796
section 5111.06 of the Revised Code, recovering overpayments under 48797
section 5111.061 of the Revised Code, or making findings or taking 48798
other actions authorized by this chapter. 48799

Sec. 5111.915. (A) The department of job and family services 48800
shall enter into an interagency agreement with the department of 48801
administrative services for the department of administrative 48802
services to acquire through competitive selection pursuant to 48803
section 125.05 of the Revised Code a computer system to be known 48804
as the medicaid enterprise data warehouse. This computer system 48805
shall be used to enhance fraud and abuse detection, improve 48806
program management and budgeting, and improve performance 48807
measurement capabilities of all agencies serving medicaid 48808
recipients, including the departments of aging, alcohol and drug 48809
addiction services, health, job and family services, mental 48810
health, and mental retardation and development disabilities. 48811

The department of administrative services shall take all 48812
necessary steps to receive and review bids for the medicaid 48813
enterprise data warehouse within ninety days after the effective 48814
date of this section. 48815

(B) A vendor with whom the department of administrative 48816
services contracts to implement the medicaid enterprise data 48817
warehouse must have performed the following services prior to the 48818
department accepting the vendor's bid: 48819

(1) Successfully implemented an enterprise data warehouse in 48820
a state whose health and human services budget, including 48821
medicaid, is equal to or exceeds Ohio's medicaid budget; 48822

(2) Demonstrated an ability to link, at a minimum, the 48823
following data sets: 48824

(a) Medicaid; 48825

<u>(b) Temporary assistance for needy families;</u>	48826
<u>(c) Vital records.</u>	48827
Sec. 5111.88 <u>5111.97</u>. (A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	48828 48829 48830
(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The department may limit the number of program participants.	48831 48832 48833 48834 48835 48836 48837 48838 48839
To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:	48840 48841
(1) Be a recipient of medicaid-funded nursing facility services, at the time of applying for the benefits;	48842 48843
(2) Have resided continuously in a nursing facility for not less than eighteen <u>twelve</u> months prior to applying to participate in the project;	48844 48845 48846
(3) Need the level of care provided by nursing facilities;	48847
(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;	48848 48849 48850 48851
(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.	48852 48853 48854

(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following: 48855
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(1) The first month's rent in a community setting; 48858

(2) Rental deposits; 48859

(3) Utility deposits; 48860

(4) Moving expenses; 48861

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting. 48862
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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. 48865
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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 program 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. 48868
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Sec. 5111.98. (A) The director of job and family services may do all of the following as necessary for the department of job and family services to fulfill the duties it has, as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173, 117 Stat. 2066: 48876
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(1) Adopt rules; 48882

(2) Assign duties to county departments of job and family 48883

<u>services;</u>	48884
<u>(3) Make payments to the United States department of health</u>	48885
<u>and human services from appropriations made to the department of</u>	48886
<u>job and family services for this purpose.</u>	48887
<u>(B) Rules adopted under division (A)(1) of this section shall</u>	48888
<u>be adopted as follows:</u>	48889
<u>(1) If the rules concern the department's duties regarding</u>	48890
<u>service providers, in accordance with Chapter 119. of the Revised</u>	48891
<u>Code;</u>	48892
<u>(2) If the rules concern the department's duties concerning</u>	48893
<u>individuals' eligibility for services, in accordance with section</u>	48894
<u>111.15 of the Revised Code;</u>	48895
<u>(3) If the rules concern the department's duties concerning</u>	48896
<u>financial and operational matters between the department and</u>	48897
<u>county departments of job and family services, in accordance with</u>	48898
<u>section 111.15 of the Revised Code as if the rules were internal</u>	48899
<u>management rules.</u>	48900
Sec. 5111.99. (A) Whoever violates division (B) of section	48901
5111.26 or division (D) (E) of section 5111.31 of the Revised Code	48902
shall be fined not less than five hundred dollars nor more than	48903
one thousand dollars for the first offense and not less than one	48904
thousand dollars nor more than five thousand dollars for each	48905
subsequent offense. Fines paid under this section shall be	48906
deposited in the state treasury to the credit of the general	48907
revenue fund.	48908
(B) Whoever violates division (D) of section 5111.61 of the	48909
Revised Code is guilty of registering a false complaint, a	48910
misdemeanor of the first degree.	48911
Sec. 5112.03. (A) The director of job and family services	48912

shall adopt, and may amend and rescind, rules in accordance with 48913
Chapter 119. of the Revised Code for the purpose of administering 48914
sections 5112.01 to 5112.21 of the Revised Code, including rules 48915
that do all of the following: 48916

(1) Define as a "disproportionate share hospital" any 48917
hospital included under subsection (b) of section 1923 of the 48918
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 48919
1396r-4(b), as amended, and any other hospital the director 48920
determines appropriate; 48921

(2) Prescribe the form for submission of cost reports under 48922
section 5112.04 of the Revised Code; 48923

(3) Establish, in accordance with division (A) of section 48924
5112.06 of the Revised Code, the assessment rate or rates to be 48925
applied to hospitals under that section; 48926

(4) Establish schedules for hospitals to pay installments on 48927
their assessments under section 5112.06 of the Revised Code and 48928
for governmental hospitals to pay installments on their 48929
intergovernmental transfers under section 5112.07 of the Revised 48930
Code; 48931

(5) Establish procedures to notify hospitals of adjustments 48932
made under division (B)(2)(b) of section 5112.06 of the Revised 48933
Code in the amount of installments on their assessment; 48934

(6) Establish procedures to notify hospitals of adjustments 48935
made under division (D) of section 5112.09 of the Revised Code in 48936
the total amount of their assessment and to adjust for the 48937
remainder of the program year the amount of the installments on 48938
the assessments; 48939

(7) Establish, in accordance with section 5112.08 of the 48940
Revised Code, the methodology for paying hospitals under that 48941
section. 48942

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

~~(3) Recipients of medical assistance provided under Chapter 5115. of the Revised Code;~~

~~(4)~~ Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(5)~~(4) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(6)~~(5) Recipients of Title V of the "Social Security Act";

~~(7)~~(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount

of indigent care provided by each hospital or group of hospitals. 48972
The amount to be allocated shall be based on any combination of 48973
the following indicators of indigent care that the director 48974
considers appropriate: 48975

(1) Total costs, volume, or proportion of services to 48976
recipients of the medical assistance program, including recipients 48977
enrolled in health insuring corporations; 48978

(2) Total costs, volume, or proportion of services to 48979
low-income patients in addition to recipients of the medical 48980
assistance program, which may include recipients of Title V of the 48981
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 48982
amended, and recipients of financial ~~or medical~~ assistance 48983
provided under Chapter 5115. of the Revised Code; 48984

(3) The amount of uncompensated care provided by the hospital 48985
or group of hospitals; 48986

(4) Other factors that the director considers to be 48987
appropriate indicators of indigent care. 48988

(C) The department shall distribute funds to each hospital or 48989
group of hospitals in a manner that first may provide for an 48990
additional distribution to individual hospitals that provide a 48991
high proportion of indigent care in relation to the total care 48992
provided by the hospital or in relation to other hospitals. The 48993
department shall establish a formula to distribute the remainder 48994
of the funds. The formula shall be consistent with section 1923 of 48995
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 48996
be based on any combination of the indicators of indigent care 48997
listed in division (B) of this section that the director considers 48998
appropriate. 48999

(D) The department shall distribute funds to each hospital in 49000
installments not later than ten working days after the deadline 49001
established in rules for each hospital to pay an installment on 49002

its assessment under section 5112.06 of the Revised Code. In the
case of a governmental hospital that makes intergovernmental
transfers, the department shall pay an installment under this
section not later than ten working days after the earlier of that
deadline or the deadline established in rules for the governmental
hospital to pay an installment on its intergovernmental transfer.
If the amount in the hospital care assurance program fund and the
hospital care assurance match fund created under section 5112.18
of the Revised Code is insufficient to make the total
distributions for which hospitals are eligible to receive in any
period, the department shall reduce the amount of each
distribution by the percentage by which the amount is
insufficient. The department shall distribute to hospitals any
amounts not distributed in the period in which they are due as
soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section: 49018

(1) "Federal poverty guideline" means the official poverty
guideline as revised annually by the United States secretary of
health and human services in accordance with section 673 of the
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42
U.S.C.A. 9902, as amended, for a family size equal to the size of
the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or
program that may be liable by law or contract to make payment to
or on behalf of an individual for health care services.
"Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under
sections 5112.01 to 5112.21 of the Revised Code shall provide,
without charge to the individual, basic, medically necessary
hospital-level services to individuals who are residents of this
state, are not recipients of the medical assistance program, and

whose income is at or below the federal poverty guideline. 49034
Recipients of disability financial assistance ~~and recipients of~~ 49035
~~disability medical assistance~~ provided under Chapter 5115. of the 49036
Revised Code qualify for services under this section. The director 49037
of job and family services shall adopt rules under section 5112.03 49038
of the Revised Code specifying the hospital services to be 49039
provided under this section. 49040

(C) Nothing in this section shall be construed to prevent a 49041
hospital from requiring an individual to apply for eligibility 49042
under the medical assistance program before the hospital processes 49043
an application under this section. Hospitals may bill any 49044
third-party payer for services rendered under this section. 49045
Hospitals may bill the medical assistance program, in accordance 49046
with Chapter 5111. of the Revised Code and the rules adopted under 49047
that chapter, for services rendered under this section if the 49048
individual becomes a recipient of the program. Hospitals may bill 49049
individuals for services under this section if all of the 49050
following apply: 49051

(1) The hospital has an established post-billing procedure 49052
for determining the individual's income and canceling the charges 49053
if the individual is found to qualify for services under this 49054
section. 49055

(2) The initial bill, and at least the first follow-up bill, 49056
is accompanied by a written statement that does all of the 49057
following: 49058

(a) Explains that individuals with income at or below the 49059
federal poverty guideline are eligible for services without 49060
charge; 49061

(b) Specifies the federal poverty guideline for individuals 49062
and families of various sizes at the time the bill is sent; 49063

(c) Describes the procedure required by division (C)(1) of 49064

this section. 49065

(3) The hospital complies with any additional rules the 49066
department adopts under section 5112.03 of the Revised Code. 49067

Notwithstanding division (B) of this section, a hospital 49068
providing care to an individual under this section is subrogated 49069
to the rights of any individual to receive compensation or 49070
benefits from any person or governmental entity for the hospital 49071
goods and services rendered. 49072

(D) Each hospital shall collect and report to the department, 49073
in the form and manner prescribed by the department, information 49074
on the number and identity of patients served pursuant to this 49075
section. 49076

(E) This section applies beginning May 22, 1992, regardless 49077
of whether the department has adopted rules specifying the 49078
services to be provided. Nothing in this section alters the scope 49079
or limits the obligation of any governmental entity or program, 49080
including the program awarding reparations to victims of crime 49081
under sections 2743.51 to 2743.72 of the Revised Code and the 49082
program for medically handicapped children established under 49083
section 3701.023 of the Revised Code, to pay for hospital services 49084
in accordance with state or local law. 49085

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 49086
Revised Code, ~~"intermediate:~~ 49087

(A) "Intermediate care facility for the mentally retarded" 49088
has the same meaning as in section 5111.20 of the Revised Code, 49089
except that it does not include any such facility operated by the 49090
department of mental retardation and developmental disabilities. 49091

(B) "Medicaid" has the same meaning as in section 5111.01 of 49092
the Revised Code. 49093

Sec. 5112.31. The department of job and family services shall 49094
do all of the following: 49095

(A) For the purpose of providing home and community-based 49096
services for mentally retarded and developmentally disabled 49097
persons, annually assess each intermediate care facility for the 49098
mentally retarded a franchise permit fee equal to nine dollars and 49099
sixty-three cents multiplied by the product of the following: 49100

(1) The number of beds certified under Title XIX of the 49101
"Social Security Act" on the first day of May of the calendar year 49102
in which the assessment is determined pursuant to division (A) of 49103
section 5112.33 of the Revised Code; 49104

(2) The number of days in the fiscal year beginning on the 49105
first day of July of the same calendar year. 49106

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each 49107
July thereafter, adjust fees determined under division (A) of this 49108
section in accordance with the composite inflation factor 49109
established in rules adopted under section 5112.39 of the Revised 49110
Code. 49111

(C) If the United States secretary of health and human 49112
services determines that the franchise permit fee established by 49113
sections 5112.30 to 5112.39 of the Revised Code would be an 49114
impermissible health care-related tax under section 1903(w) of the 49115
"Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the~~ 49116
~~department shall~~ take all necessary actions to cease 49117
implementation of those sections in accordance with rules adopted 49118
under section 5112.39 of the Revised Code. 49119

Sec. 5112.341. (A) In addition to assessing a penalty 49120
pursuant to section 5112.34 of the Revised Code, the department of 49121
job and family services may do either of the following if an 49122
intermediate care facility for the mentally retarded fails to pay 49123

the full amount of a franchise permit fee installment when due: 49124

(1) Withhold an amount equal to the installment and penalty 49125
assessed under section 5112.34 of the Revised Code from a medicaid 49126
payment due the facility until the facility pays the installment 49127
and penalty; 49128

(2) Terminate the facility's medicaid provider agreement. 49129

(B) The department may withhold a medicaid payment under 49130
division (A)(1) of this section without providing notice to the 49131
intermediate care facility for the mentally retarded and without 49132
conducting an adjudication under Chapter 119. of the Revised Code. 49133

Sec. 5115.20. (A) The department of job and family services 49134
shall establish a disability advocacy program and each county 49135
department of job and family services shall establish a disability 49136
advocacy program unit or join with other county departments of job 49137
and family services to establish a joint county disability 49138
advocacy program unit. Through the program the department and 49139
county departments shall cooperate in efforts to assist applicants 49140
for and recipients of assistance under the disability financial 49141
assistance program ~~and the disability medical assistance program,~~ 49142
who might be eligible for supplemental security income benefits 49143
under Title XVI of the "Social Security Act," 86 Stat. 1475 49144
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 49145
benefits. 49146

As part of their disability advocacy programs, the state 49147
department and county departments may enter into contracts for the 49148
services of persons and government entities that in the judgment 49149
of the department or county department have demonstrated expertise 49150
in representing persons seeking supplemental security income 49151
benefits. Each contract shall require the person or entity with 49152
which a department contracts to assess each person referred to it 49153

by the department to determine whether the person appears to be 49154
eligible for supplemental security income benefits, and, if the 49155
person appears to be eligible, assist the person in applying and 49156
represent the person in any proceeding of the social security 49157
administration, including any appeal or reconsideration of a 49158
denial of benefits. The department or county department shall 49159
provide to the person or entity with which it contracts all 49160
records in its possession relevant to the application for 49161
supplemental security income benefits. The department shall 49162
require a county department with relevant records to submit them 49163
to the person or entity. 49164

(B) Each applicant for or recipient of disability financial 49165
assistance ~~or disability medical assistance~~ who, in the judgment 49166
of the department or a county department might be eligible for 49167
supplemental security benefits, shall, as a condition of 49168
eligibility for assistance, apply for such benefits if directed to 49169
do so by the department or county department. 49170

(C) With regard to applicants for and recipients of 49171
disability financial assistance ~~or disability medical assistance~~, 49172
each county department of job and family services shall do all of 49173
the following: 49174

(1) Identify applicants and recipients who might be eligible 49175
for supplemental security income benefits; 49176

(2) Assist applicants and recipients in securing 49177
documentation of disabling conditions or refer them for such 49178
assistance to a person or government entity with which the 49179
department or county department has contracted under division (A) 49180
of this section; 49181

(3) Inform applicants and recipients of available sources of 49182
representation, which may include a person or government entity 49183
with which the department or county department has contracted 49184

under division (A) of this section, and of their right to 49185
represent themselves in reconsiderations and appeals of social 49186
security administration decisions that deny them supplemental 49187
security income benefits. The county department may require the 49188
applicants and recipients, as a condition of eligibility for 49189
assistance, to pursue reconsiderations and appeals of social 49190
security administration decisions that deny them supplemental 49191
security income benefits, and shall assist applicants and 49192
recipients as necessary to obtain such benefits or refer them to a 49193
person or government entity with which the department or county 49194
department has contracted under division (A) of this section. 49195

(4) Require applicants and recipients who, in the judgment of 49196
the county department, are or may be aged, blind, or disabled, to 49197
apply for medical assistance under Chapter 5111. of the Revised 49198
Code, make determinations when appropriate as to eligibility for 49199
medical assistance, and refer their applications when necessary to 49200
the disability determination unit established in accordance with 49201
division (F) of this section for expedited review; 49202

(5) Require each applicant and recipient who in the judgment 49203
of the department or the county department might be eligible for 49204
supplemental security income benefits, as a condition of 49205
eligibility for disability financial assistance ~~or disability~~ 49206
~~medical assistance~~, to execute a written authorization for the 49207
secretary of health and human services to withhold benefits due 49208
that individual and pay to the director of job and family services 49209
or the director's designee an amount sufficient to reimburse the 49210
state and county shares of interim assistance furnished to the 49211
individual. For the purposes of division (C)(5) of this section, 49212
"benefits" and "interim assistance" have the meanings given in 49213
Title XVI of the "Social Security Act." 49214

(D) The director of job and family services shall adopt rules 49215
in accordance with section 111.15 of the Revised Code for the 49216

effective administration of the disability advocacy program. The 49217
rules shall include all of the following: 49218

(1) Methods to be used in collecting information from and 49219
disseminating it to county departments, including the following: 49220

(a) The number of individuals in the county who are disabled 49221
recipients of disability financial assistance ~~or disability~~ 49222
~~medical assistance;~~ 49223

(b) The final decision made either by the social security 49224
administration or by a court for each application or 49225
reconsideration in which an individual was assisted pursuant to 49226
this section. 49227

(2) The type and process of training to be provided by the 49228
department of job and family services to the employees of the 49229
county department of job and family services who perform duties 49230
under this section; 49231

(3) Requirements for the written authorization required by 49232
division (C)(5) of this section. 49233

(E) The department shall provide basic and continuing 49234
training to employees of the county department of job and family 49235
services who perform duties under this section. Training shall 49236
include but not be limited to all processes necessary to obtain 49237
federal disability benefits, and methods of advocacy. 49238

(F) The department shall establish a disability determination 49239
unit and develop guidelines for expediting reviews of applications 49240
for medical assistance under Chapter 5111. of the Revised Code for 49241
persons who have been referred to the unit under division (C)(4) 49242
of this section. The department shall make determinations of 49243
eligibility for medical assistance for any such person within the 49244
time prescribed by federal regulations. 49245

(G) The department may, under rules the director of job and 49246

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 government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

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(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.

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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.

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(B) As a condition of eligibility for disability financial assistance ~~or disability medical assistance~~, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide

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assistance to individuals with disabilities. The state or county 49278
department of job and family services may provide assistance to 49279
the applicant or recipient in securing other forms of financial 49280
assistance. 49281

Sec. 5115.23. As used in this section, "erroneous payments" 49282
means disability financial assistance payments ~~or disability~~ 49283
~~medical assistance payments~~ made to persons who are not entitled 49284
to receive them, including payments made as a result of 49285
misrepresentation or fraud, and payments made due to an error by 49286
the recipient or by the county department of job and family 49287
services that made the payment. 49288

The department of job and family services shall adopt rules 49289
in accordance with section 111.15 of the Revised Code specifying 49290
the circumstances under which action is to be taken under this 49291
section to recover erroneous payments. The department, or a county 49292
department of job and family services at the request of the 49293
department, shall take action to recover erroneous payments in the 49294
circumstances specified in the rules. The department or county 49295
department may institute a civil action to recover erroneous 49296
payments. 49297

Whenever disability financial assistance ~~or disability~~ 49298
~~medical assistance~~ has been furnished to a recipient for whose 49299
support another person is responsible, the other person shall, in 49300
addition to the liability otherwise imposed, as a consequence of 49301
failure to support the recipient, be liable for all assistance 49302
furnished the recipient. The value of the assistance so furnished 49303
may be recovered in a civil action brought by the county 49304
department of job and family services. 49305

Each county department of job and family services shall 49306
retain fifty per cent of the erroneous payments it recovers under 49307
this section. The department of job and family services shall 49308

receive the remaining fifty per cent. 49309

Sec. 5119.61. Any provision in this chapter that refers to a 49310
board of alcohol, drug addiction, and mental health services also 49311
refers to the community mental health board in an alcohol, drug 49312
addiction, and mental health service district that has a community 49313
mental health board. 49314

The director of mental health with respect to all facilities 49315
and programs established and operated under Chapter 340. of the 49316
Revised Code for mentally ill and emotionally disturbed persons, 49317
shall do all of the following: 49318

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 49319
that may be necessary to carry out the purposes of Chapter 340. 49320
and sections 5119.61 to 5119.63 of the Revised Code. 49321

(1) The rules shall include all of the following: 49322

(a) Rules governing a community mental health agency's 49323
services under section 340.091 of the Revised Code to an 49324
individual referred to the agency under division (C)(2) of section 49325
173.35 of the Revised Code; 49326

(b) For the purpose of division (A)(16) of section 340.03 of 49327
the Revised Code, rules governing the duties of mental health 49328
agencies and boards of alcohol, drug addiction, and mental health 49329
services under section 3722.18 of the Revised Code regarding 49330
referrals of individuals with mental illness or severe mental 49331
disability to adult care facilities and effective arrangements for 49332
ongoing mental health services for the individuals. The rules 49333
shall do at least the following: 49334

(i) Provide for agencies and boards to participate fully in 49335
the procedures owners and managers of adult care facilities must 49336
follow under division (A)(2) of section 3722.18 of the Revised 49337
Code; 49338

(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, as defined in section ~~5111.022~~ 5111.023 of the Revised Code, for providing services listed in division (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 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 district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612,

or 5119.62 of the Revised Code or rules of the department of 49370
mental health. The director shall identify the areas of 49371
noncompliance and the action necessary to achieve compliance. The 49372
director shall offer technical assistance to the board to achieve 49373
compliance. The director shall give the board a reasonable time 49374
within which to comply or to present its position that it is in 49375
compliance. Before withholding funds, a hearing shall be conducted 49376
to determine if there are continuing violations and that either 49377
assistance is rejected or the board is unable to achieve 49378
compliance. Subsequent to the hearing process, if it is determined 49379
that compliance has not been achieved, the director may allocate 49380
all or part of the withheld funds to a public or private agency to 49381
provide the services not in compliance until the time that there 49382
is compliance. The director shall establish rules pursuant to 49383
Chapter 119. of the Revised Code to implement this division. 49384

(D) Withhold state or federal funds from a board of alcohol, 49385
drug addiction, and mental health services that denies available 49386
service on the basis of religion, race, color, creed, sex, 49387
national origin, age, disability as defined in section 4112.01 of 49388
the Revised Code, developmental disability, or the inability to 49389
pay; 49390

(E) Provide consultative services to community mental health 49391
agencies with the knowledge and cooperation of the board of 49392
alcohol, drug addiction, and mental health services; 49393

(F) Provide to boards of alcohol, drug addiction, and mental 49394
health services state or federal funds, in addition to those 49395
allocated under section 5119.62 of the Revised Code, for special 49396
programs or projects the director considers necessary but for 49397
which local funds are not available; 49398

(G) Establish criteria by which a board of alcohol, drug 49399
addiction, and mental health services reviews and evaluates the 49400

quality, effectiveness, and efficiency of services provided 49401
through its community mental health plan. The criteria shall 49402
include requirements ensuring appropriate service utilization. The 49403
department shall assess a board's evaluation of services and the 49404
compliance of each board with this section, Chapter 340. or 49405
section 5119.62 of the Revised Code, and other state or federal 49406
law and regulations. The department, in cooperation with the 49407
board, periodically shall review and evaluate the quality, 49408
effectiveness, and efficiency of services provided through each 49409
board. The department shall collect information that is necessary 49410
to perform these functions. 49411

(H) Develop and operate a community mental health information 49412
system. 49413

Boards of alcohol, drug abuse, and mental health services 49414
shall submit information requested by the department in the form 49415
and manner prescribed by the department. Information collected by 49416
the department shall include, but not be limited to, all of the 49417
following: 49418

(1) Information regarding units of services provided in whole 49419
or in part under contract with a board, including diagnosis and 49420
special needs, demographic information, the number of units of 49421
service provided, past treatment, financial status, and service 49422
dates in accordance with rules adopted by the department in 49423
accordance with Chapter 119. of the Revised Code; 49424

(2) Financial information other than price or price-related 49425
data regarding expenditures of boards and community mental health 49426
agencies, including units of service provided, budgeted and actual 49427
expenses by type, and sources of funds. 49428

Boards shall submit the information specified in division 49429
(H)(1) of this section no less frequently than annually for each 49430
client, and each time the client's case is opened or closed. The 49431

department shall not collect any information for the purpose of 49432
identifying by name any person who receives a service through a 49433
board of alcohol, drug addiction, and mental health services, 49434
except as required by state or federal law to validate appropriate 49435
reimbursement. For the purposes of division (H)(1) of this 49436
section, the department shall use an identification system that is 49437
consistent with applicable nationally recognized standards. 49438

(I) Review each board's community mental health plan 49439
submitted pursuant to section 340.03 of the Revised Code and 49440
approve or disapprove it in whole or in part. Periodically, in 49441
consultation with representatives of boards and after considering 49442
the recommendations of the medical director, the director shall 49443
issue criteria for determining when a plan is complete, criteria 49444
for plan approval or disapproval, and provisions for conditional 49445
approval. The factors that the director considers may include, but 49446
are not limited to, the following: 49447

(1) The mental health needs of all persons residing within 49448
the board's service district, especially severely mentally 49449
disabled children, adolescents, and adults; 49450

(2) The demonstrated quality, effectiveness, efficiency, and 49451
cultural relevance of the services provided in each service 49452
district, the extent to which any services are duplicative of 49453
other available services, and whether the services meet the needs 49454
identified above; 49455

(3) The adequacy of the board's accounting for the 49456
expenditure of funds. 49457

If the director disapproves all or part of any plan, the 49458
director shall provide the board an opportunity to present its 49459
position. The director shall inform the board of the reasons for 49460
the disapproval and of the criteria that must be met before the 49461
plan may be approved. The director shall give the board a 49462

reasonable time within which to meet the criteria, and shall offer 49463
technical assistance to the board to help it meet the criteria. 49464

If the approval of a plan remains in dispute thirty days 49465
prior to the conclusion of the fiscal year in which the board's 49466
current plan is scheduled to expire, the board or the director may 49467
request that the dispute be submitted to a mutually agreed upon 49468
third-party mediator with the cost to be shared by the board and 49469
the department. The mediator shall issue to the board and the 49470
department recommendations for resolution of the dispute. Prior to 49471
the conclusion of the fiscal year in which the current plan is 49472
scheduled to expire, the director, taking into consideration the 49473
recommendations of the mediator, shall make a final determination 49474
and approve or disapprove the plan, in whole or in part. 49475

Sec. 5120.09. Under the supervision and control of the 49476
director of rehabilitation and correction, the division of 49477
business administration shall do all of the following: 49478

(A) Submit the budgets for the several divisions of the 49479
department of rehabilitation and correction, as prepared by the 49480
respective chiefs of those divisions, to the director. The 49481
director, with the assistance of the chief of the division of 49482
business administration, shall compile a departmental budget that 49483
contains all proposals submitted by the chiefs of the divisions 49484
and shall forward the departmental budget to the governor with 49485
comments and recommendations that the director considers 49486
necessary. 49487

(B) Maintain accounts and records and compile statistics that 49488
the director prescribes; 49489

(C) Under the control of the director, coordinate and make 49490
the necessary purchases and requisitions for the department and 49491
its divisions, except as provided under section 5119.16 of the 49492

Revised Code; 49493

(D) Administer within this state federal criminal justice 49494
acts that the governor requires the department to administer. In 49495
order to improve the criminal justice system of this state, the 49496
division of business administration shall apply for, allocate, 49497
disburse, and account for grants that are made available pursuant 49498
to those federal criminal justice acts and grants that are made 49499
available from other federal government sources, state government 49500
sources, or private sources. As used in this division, "criminal 49501
justice system" and "federal criminal justice acts" have the same 49502
meanings as in section ~~181.51~~ 5502.61 of the Revised Code. 49503

(E) Audit the activities of governmental entities, persons as 49504
defined in section 1.59 of the Revised Code, and other types of 49505
nongovernmental entities that are financed in whole or in part by 49506
funds that the department allocates or disburses and that are 49507
derived from grants described in division (D) of this section; 49508

(F) Enter into contracts, including contracts with federal, 49509
state, or local governmental entities, persons as defined in 49510
section 1.59 of the Revised Code, foundations, and other types of 49511
nongovernmental entities, that are necessary for the department to 49512
carry out its duties and that neither the director nor another 49513
section of the Revised Code authorizes another division of the 49514
department to enter; 49515

(G) Exercise other powers and perform other duties that the 49516
director may assign to the division of business administration. 49517

Sec. 5120.16. (A) Persons sentenced to any institution, 49518
division, or place under the control of the department of 49519
rehabilitation and correction are committed to the control, care, 49520
and custody of the department. Subject to division (B) of this 49521
section, the director of rehabilitation and correction or the 49522

director's designee may direct that persons sentenced to the 49523
department, or to any institution or place within the department, 49524
shall be conveyed initially to an appropriate facility established 49525
and maintained by the department for reception, examination, 49526
observation, and classification of the persons so sentenced. If a 49527
presentence investigation report was not prepared pursuant to 49528
section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 49529
32.2 regarding any person sentenced to the department or to any 49530
institution or place within the department, the director or the 49531
director's designee may order the department's field staff to 49532
conduct an offender background investigation and prepare an 49533
offender background investigation report regarding the person. The 49534
investigation and report shall be conducted in accordance with 49535
division (A) of section 2951.03 of the Revised Code and the report 49536
shall contain the same information as a presentence investigation 49537
report prepared pursuant to that section. 49538

When the examination, observation, and classification of the 49539
person have been completed by the facility and a written report of 49540
the examination, observation, and classification is filed with the 49541
commitment papers, the director or the director's designee, 49542
subject to division (B) of this section, shall assign the person 49543
to a suitable state institution or place maintained by the state 49544
within the director's department or shall designate that the 49545
person is to be housed in a county, multicounty, municipal, 49546
municipal-county, or multicounty-municipal jail or workhouse, if 49547
authorized by section 5120.161 of the Revised Code, there to be 49548
confined, cared for, treated, trained, and rehabilitated until 49549
paroled, released in accordance with section 2929.20, 2967.24, 49550
2967.26, or 2967.28 of the Revised Code, or otherwise released 49551
under the order of the court that imposed the person's sentence. 49552
No person committed by a probate court, a trial court pursuant to 49553
section 2945.40, 2945.401, or 2945.402 of the Revised Code 49554

subsequent to a finding of not guilty by reason of insanity, or a 49555
juvenile court shall be assigned to a state correctional 49556
institution. 49557

If a person is sentenced, committed, or assigned for the 49558
commission of a felony to any one of the institutions or places 49559
maintained by the department or to a county, multicounty, 49560
municipal, municipal-county, or multicounty-municipal jail or 49561
workhouse, the department, by order duly recorded and subject to 49562
division (B) of this section, may transfer the person to any other 49563
institution, or, if authorized by section 5120.161 of the Revised 49564
Code, to a county, multicounty, municipal, municipal-county, or 49565
multicounty-municipal jail or workhouse. 49566

(B) If the case of a child who is alleged to be a delinquent 49567
child is transferred for criminal prosecution to the appropriate 49568
court having jurisdiction of the offense pursuant to section 49569
2152.12 of the Revised Code, if the child is convicted of or 49570
pleads guilty to a felony in that case, if the child is sentenced 49571
to a prison term, as defined in section 2901.01 of the Revised 49572
Code, and if the child is under eighteen years of age when 49573
delivered to the custody of the department of rehabilitation and 49574
correction, all of the following apply regarding the housing of 49575
the child: 49576

(1) Until the child attains eighteen years of age, subject to 49577
divisions (B)(2), (3), and (4) of this section, the department 49578
shall house the child in a housing unit in a state correctional 49579
institution separate from inmates who are eighteen years of age or 49580
older. 49581

(2) The department is not required to house the child in the 49582
manner described in division (B)(1) of this section if the child 49583
does not observe the rules and regulations of the institution or 49584
the child otherwise creates a security risk by being housed 49585
separately. 49586

(3) If the department receives too few inmates who are under 49587
eighteen years of age to fill a housing unit in a state 49588
correctional institution separate from inmates who are eighteen 49589
years of age or older, as described in division (B)(1) of this 49590
section, the department may house the child in a housing unit in a 49591
state correctional institution that includes both inmates who are 49592
under eighteen years of age and inmates who are eighteen years of 49593
age or older and under twenty-one years of age. 49594

(4) Upon the child's attainment of eighteen years of age, the 49595
department may house the child with the adult population of the 49596
state correctional institution. 49597

(C) The director or the director's designee shall develop a 49598
policy for dealing with problems related to infection with the 49599
human immunodeficiency virus. The policy shall include methods of 49600
identifying individuals committed to the custody of the department 49601
who are at high risk of infection with the virus and counseling 49602
those individuals. 49603

Arrangements for housing individuals diagnosed as having AIDS 49604
or an AIDS-related condition shall be made by the department based 49605
on security and medical considerations and in accordance with 49606
division (B) of this section, if applicable. 49607

Sec. 5120.48. (A) If a prisoner escapes from a state 49608
correctional institution, the managing officer of the institution, 49609
after consultation with and upon the advice of appropriate law 49610
enforcement officials, shall assign and deploy into the community 49611
appropriate staff persons necessary to apprehend the prisoner. 49612
Correctional officers and officials may carry firearms when 49613
required in the discharge of their duties in apprehending, taking 49614
into custody, or transporting to a place of confinement a prisoner 49615
who has escaped from a state correctional institution. 49616

(B) If a prisoner is released from a state correctional 49617
institution prior to the lawful end of the person's prison term or 49618
term of imprisonment, whether by error, inadvertence, fraud, or 49619
any other cause except a lawful parole, a release pursuant to 49620
section 2967.24 of the Revised Code, or a judicial release granted 49621
pursuant to section 2929.20 of the Revised Code, the managing 49622
officer of the institution, after consulting with the bureau of 49623
sentence computation, shall notify the chief of the adult parole 49624
authority, the office of victim services of the division of parole 49625
and community services, and the sentencing court of the mistaken 49626
release. Upon the direction of the chief, or the chief's designee, 49627
field officers of the authority may arrest the prisoner without a 49628
warrant and return the prisoner to the state correctional 49629
institution to complete the balance of the prisoner's sentence. 49630
The chief of the adult parole authority, or the chief's designee, 49631
may require the assistance of any peace officer or law enforcement 49632
officer in the apprehension of a prisoner of that nature. 49633

Sec. 5120.51. (A)(1) If the director of rehabilitation and 49634
correction determines that a bill introduced in the general 49635
assembly is likely to have a significant impact on the population 49636
of, or the cost of operating, any or all state correctional 49637
institutions under the administration of the department of 49638
rehabilitation and correction, the department shall prepare a 49639
population and cost impact statement for the bill, in accordance 49640
with division (A)(2) of this section. 49641

(2) A population and cost impact statement required for a 49642
bill ~~shall~~ shall estimate the increase or decrease in the 49643
correctional institution population that likely would result if 49644
the bill were enacted, shall estimate, in dollars, the amount by 49645
which revenues or expenditures likely would increase or decrease 49646
if the bill were enacted, and briefly shall explain each of the 49647

estimates. 49648

A population and cost impact statement required for a bill 49649
initially shall be prepared after the bill is referred to a 49650
committee of the general assembly in the house of origination but 49651
before the meeting of the committee at which the committee is 49652
scheduled to vote on whether to recommend the bill for passage. A 49653
copy of the statement shall be distributed to each member of the 49654
committee that is considering the bill and to the member of the 49655
general assembly who introduced it. If the bill is recommended for 49656
passage by the committee, the department shall update the 49657
statement before the bill is taken up for final consideration by 49658
the house of origination. A copy of the updated statement shall be 49659
distributed to each member of that house and to the member of the 49660
general assembly who introduced the bill. If the bill is passed by 49661
the house of origination and is introduced in the second house, 49662
the provisions of this division concerning the preparation, 49663
updating, and distribution of the statement in the house of 49664
origination also apply in the second house. 49665

(B) The governor or any member of the general assembly, at 49666
any time, may request the department to prepare a population and 49667
cost impact statement for any bill introduced in the general 49668
assembly. Upon receipt of a request, the department promptly shall 49669
prepare a statement that includes the estimates and explanations 49670
described in division (A)(2) of this section and present a copy of 49671
it to the governor or member who made the request. 49672

(C) In the preparation of a population and cost impact 49673
statement required by division (A) or (B) of this section, the 49674
department shall use a technologically sophisticated system 49675
capable of estimating future state correctional institution 49676
populations. The system shall have the capability to adjust its 49677
estimates based on actual and proposed changes in sentencing laws 49678
and trends, sentence durations, parole rates, crime rates, and any 49679

other data that affect state correctional institution populations. 49680
The department, in conjunction with the advisory committee 49681
appointed under division (E) of this section, shall review and 49682
update the data used in the system, not less than once every six 49683
months, to improve the accuracy of the system. 49684

(D) At least once every six months, the department shall 49685
provide to the correctional institution inspection committee a 49686
copy of the estimates of state correctional institution 49687
populations obtained through use of the system described in 49688
division (C) of this section and a description of the assumptions 49689
regarding sentencing laws and trends, sentence durations, parole 49690
rates, crime rates, and other relevant data that were made by the 49691
department to obtain the estimates. Additionally, a copy of the 49692
estimates and a description of the assumptions made to obtain them 49693
shall be provided, upon reasonable request, to other legislative 49694
staff, including the staff of the legislative service commission 49695
~~and the legislative budget office of the legislative service~~ 49696
~~commission~~, to the office of budget and management, and to the 49697
~~office~~ division of criminal justice services in the department of 49698
public safety. 49699

(E) The correctional institution inspection committee shall 49700
appoint an advisory committee to review the operation of the 49701
system for estimating future state correctional institution 49702
populations that is used by the department in the preparation of 49703
population cost impact statements pursuant to this section and to 49704
join with the department in its reviews and updating of the data 49705
used in the system under division (C) of this section. The 49706
advisory committee shall be comprised of at least one prosecuting 49707
attorney, at least one common pleas court judge, at least one 49708
public defender, at least one person who is a member or staff 49709
employee of the committee, and at least one representative of the 49710
~~office~~ division of criminal justice services in the department of 49711

public safety. 49712

Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections 49713
5121.01 to 5121.21 of the Revised Code: 49714

~~(A) Patient means a person receiving care or treatment in a~~ 49715
~~program or facility that provides services to mentally ill~~ 49716
~~individuals.~~ 49717

~~(B)~~ "The department" means the department of mental health or 49718
the department of mental retardation and developmental 49719
disabilities, whichever provides care or treatment to the ~~patient~~ 49720
recipient or resident. 49721

~~(C)~~(B) "Resident" means a person admitted to an institution 49722
or other facility pursuant to Chapter 5123. of the Revised Code 49723
who is under observation or receiving habilitation and care in an 49724
institution for the mentally retarded. 49725

(C) "Community mental health services recipient" or 49726
"recipient" means a person receiving state-operated community 49727
mental health services. 49728

(D) "State-operated community mental health services" means 49729
community-based services the department of mental health operates 49730
for a board of alcohol, drug addiction, and mental health services 49731
pursuant to a community mental health plan approved under division 49732
(A)(1)(c) of section 340.03 of the Revised Code. 49733

(E) "Applicable cost" means the rate for support applicable 49734
to a ~~patient or~~ resident or recipient as specified in this 49735
section. 49736

The cost for support of ~~patients in hospitals and~~ residents 49737
in institutions under the jurisdiction of ~~the department of mental~~ 49738
~~health or~~ the department of mental retardation and developmental 49739
disabilities, and of residents in private facilities or homes 49740
whose care or treatment is being paid for by the department of 49741

mental retardation and developmental disabilities, shall be based 49742
on the average per capita cost of the care and treatment of such 49743
~~patients or~~ residents. The cost of services for ~~mentally ill~~ 49744
~~patients or~~ mentally retarded residents shall be computed using 49745
the projected average daily per capita cost at the ~~hospital or~~ 49746
institution, or at the discretion of the department under the 49747
jurisdiction of which the ~~hospital or~~ institution is operated, the 49748
subunit thereof in which services are provided. Such costs shall 49749
be computed at least annually for the next prospective period 49750
using generally accepted governmental accounting principles. The 49751
cost of services for mentally retarded residents that are being 49752
cared for and maintained in a private facility or home under the 49753
supervision of the department of mental retardation and 49754
developmental disabilities regional offices and for which a 49755
purchase of services contract is being paid to the private 49756
facility or home by the department shall not be more than the per 49757
diem cost of the contract. The cost of services for a resident 49758
receiving pre-admission care, after-care, day-care, or routine 49759
consultation and treatment services in a community service unit 49760
under the jurisdiction of the department, shall be computed on the 49761
basis of the average cost of such services at the institution at 49762
which they are provided. 49763

The cost for support of a ~~patient receiving~~ recipient of 49764
state-operated community mental health services is an amount 49765
determined using guidelines the department of mental health shall 49766
issue. The guidelines shall be based on cost-findings and 49767
rate-settings applicable to such services. 49768

The appropriate department shall annually determine the 49769
ability to pay of a ~~patient or~~ resident, recipient, or the 49770
~~patient's or~~ resident's or recipient's liable relatives and the 49771
amount that such person shall pay in accordance with section 49772
5121.04 of the Revised Code. 49773

Collections of support payments shall be made by the 49774
department of mental health and the department of mental 49775
retardation and developmental disabilities and, subject to meeting 49776
prior requirements for payment and crediting of such collections 49777
and other available receipts, in accordance with the bond 49778
proceedings applicable to obligations issued pursuant to section 49779
154.20 of the Revised Code, such collections and other available 49780
receipts designated by the director of the department of mental 49781
health and the director of the department of mental retardation 49782
and developmental disabilities for deposit in the special 49783
accounts, together with insurance contract payments provided for 49784
in division (B)(8) of section 5121.04 of the Revised Code, shall 49785
be remitted to the treasurer of state for deposit in the state 49786
treasury to the credit of the mental health operating fund and the 49787
mental retardation operating fund, which are hereby created, to be 49788
used for the general purposes of the department of mental health 49789
and the department of mental retardation and developmental 49790
disabilities. The department of mental health shall make refunds 49791
of overpayment of support charges from the mental health operating 49792
fund, and the department of mental retardation and developmental 49793
disabilities shall make refunds of overpayment of support charges 49794
from the mental retardation operating fund. 49795

Sec. ~~5121.01~~ 5121.02. All ~~patients or residents of a~~ 49796
~~benevolent~~ admitted to an institution, or facility pursuant to 49797
Chapter 5123. of the Revised Code shall be maintained at the 49798
expense of the state. Their traveling and incidental expenses in 49799
conveying them to the institution or facility shall be paid by the 49800
county of commitment. Upon admission, the ~~patients or residents~~ 49801
shall be neatly and comfortably clothed. Thereafter, the expense 49802
of necessary clothing shall be borne by the responsible relatives 49803
or guardian if they are financially able. If not furnished, the 49804
state shall bear the expense. Any required traveling expense after 49805

admission to the institution or facility shall be borne by the 49806
state if the responsible relatives or guardian are unable to do 49807
so. 49808

Sec. ~~5121.02~~ 5121.03. When any person is committed to an 49809
institution under the jurisdiction of ~~the department of mental~~ 49810
~~health or~~ the department of mental retardation and developmental 49811
disabilities pursuant to judicial proceedings, the judge ordering 49812
such commitment shall: 49813

(A) Make a reliable report on the financial condition of such 49814
person and of each of the relatives of the person who are liable 49815
for ~~his~~ the person's support, as provided in section 5121.06 of 49816
the Revised Code and rules and procedures agreed upon by ~~the~~ 49817
~~director of mental health and~~ the director of mental retardation 49818
and developmental disabilities; 49819

(B) Certify to the managing officer of such institution, and 49820
the managing officer shall thereupon enter upon ~~his~~ the managing 49821
officer's records the name and address of any guardian appointed 49822
and of any relative liable for such person's support under section 49823
5121.06 of the Revised Code. 49824

Sec. 5121.04. (A) ~~The department of mental health and the~~ 49825
department of mental retardation and developmental disabilities 49826
shall investigate the financial condition of the ~~patients in~~ 49827
~~hospitals and~~ residents in institutions, residents whose care or 49828
treatment is being paid for in a private facility or home under 49829
the control of the department of mental retardation and 49830
developmental disabilities, and of the relatives named in section 49831
5121.06 of the Revised Code as liable for the support of such 49832
~~patients or~~ residents, in order to determine the ability of any 49833
~~patient, resident, or such~~ relatives of residents to pay for the 49834
support of the ~~patient or~~ resident and to provide suitable 49835

clothing as required by the superintendent of the institution. 49836

The department of mental health shall investigate the 49837
financial condition of ~~patients receiving state operated community~~ 49838
~~mental health services~~ recipients and of the liable relatives of 49839
recipients to determine the ~~patient's~~ recipient's or relative's 49840
ability to pay for the ~~patient's~~ recipient's support. In all 49841
cases, in determining ability to pay and the amount to be charged, 49842
due regard shall be had for others who may be dependent for 49843
support upon such relatives or the estate of the ~~patient~~ 49844
recipient. 49845

(B) The department shall follow the provisions of this 49846
division in determining the ability to pay of a ~~patient or~~ 49847
resident or recipient or the ~~patient's or~~ resident's or 49848
recipient's liable relatives and the amount to be charged such 49849
~~patient or~~ resident, recipient, or liable relatives. 49850

(1) Subject to divisions (B)(10) and (11) of this section, a 49851
~~patient or~~ resident or recipient without dependents shall be 49852
liable for the full applicable cost. A ~~patient or~~ resident or 49853
recipient without dependents who has a gross annual income equal 49854
to or exceeding the sum of the full applicable cost, plus fifty 49855
dollars per month, regardless of the source of such income, shall 49856
pay currently the full amount of the applicable cost; if the 49857
~~patient's or~~ resident's or recipient's gross annual income is less 49858
than such sum, not more than fifty dollars per month shall be kept 49859
for personal use by or on behalf of the ~~patient or~~ resident or 49860
recipient, except as permitted in the state plan for providing 49861
medical assistance under Title XIX of the "Social Security Act," 49862
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance 49863
shall be paid currently on the ~~patient's or~~ resident's or 49864
recipient's support. Subject to divisions (B)(10) and (11) of this 49865
section, the estate of a ~~patient or~~ resident or recipient without 49866
dependents shall pay currently any remaining difference between 49867

the applicable cost and the amounts prescribed in this section, or 49868
shall execute an agreement with the department for payment to be 49869
made at some future date under terms suitable to the department. 49870
However, no security interest, mortgage, or lien shall be taken, 49871
granted, or charged against any principal residence of a ~~patient~~ 49872
~~or~~ resident or recipient without dependents under an agreement or 49873
otherwise to secure support payments, and no foreclosure actions 49874
shall be taken on security interests, mortgages, or liens taken, 49875
granted, or charged against principal residences of ~~patients or~~ 49876
residents or recipients prior to October 7, 1977. 49877

(2) The ability to pay of a ~~patient or~~ resident or recipient 49878
with dependents, or of a liable relative of a ~~patient or~~ resident 49879
or recipient either with or without dependents, shall be 49880
determined in accordance with the ~~patient's,~~ resident's, 49881
recipient's, or liable relative's income or other assets, the 49882
needs of others who are dependent on such income and other assets 49883
for support, and, if applicable, divisions (B)(10) and (11) of 49884
this section. 49885

For the first thirty days of care and treatment of each 49886
admission and for the first thirty days of care and treatment from 49887
state-operated community mental health services, but in no event 49888
for more than thirty days in any calendar year, the ~~mentally ill~~ 49889
~~patient or mentally retarded~~ resident or recipient with dependents 49890
or the liable relative of a ~~mentally ill patient or a mentally~~ 49891
~~retarded~~ resident or recipient either with or without dependents 49892
shall be charged an amount equal to the percentage of the average 49893
applicable cost determined in accordance with the schedule of 49894
adjusted gross annual income contained after this paragraph. After 49895
such first thirty days of care and treatment, such ~~mentally ill~~ 49896
~~patient or mentally retarded~~ resident, recipient, or such liable 49897
relative shall be charged an amount equal to the percentage of a 49898
base support rate of four dollars per day for ~~mentally ill~~ 49899

~~patients and mentally retarded~~ residents or recipients, as 49900
 determined in accordance with the schedule of gross annual income 49901
 contained after this paragraph, or in accordance with division 49902
 (B)(5) of this section. Beginning January 1, 1978, the department 49903
 shall increase the base rate when the consumer price index average 49904
 is more than 4.0 for the preceding calendar year by not more than 49905
 the average for such calendar year. 49906

Adjusted Gross Annual 49907

Income of Patient or Resident 49908

or Liable Relative (FN a) Number of Dependents (FN b) 49909

8 or 49910

1 2 3 4 5 6 7 more 49911

Rate of Support (In Percentages) 49912

\$15,000 or less -- -- -- -- -- -- -- -- 49913

15,001 to 17,500 20 -- -- -- -- -- -- -- 49914

17,501 to 20,000 25 20 -- -- -- -- -- -- 49915

20,001 to 21,000 30 25 20 -- -- -- -- -- 49916

21,001 to 22,000 35 30 25 20 -- -- -- -- 49917

22,001 to 23,000 40 35 30 25 20 -- -- -- 49918

23,001 to 24,000 45 40 35 30 25 20 -- -- 49919

24,001 to 25,000 50 45 40 35 30 25 20 -- 49920

25,001 to 26,000 55 50 45 40 35 30 25 20 49921

26,001 to 27,000 60 55 50 45 40 35 30 25 49922

27,001 to 28,000 70 60 55 50 45 40 35 30 49923

28,001 to 30,000 80 70 60 55 50 45 40 35 49924

30,001 to 40,000 90 80 70 60 55 50 45 40 49925

40,001 and over 100 90 80 70 60 55 50 45 49926

Footnote a. The ~~patient or resident~~, recipient, or relative 49927
 shall furnish a copy of the ~~patient's~~, resident's, recipient's, or 49928
 relative's federal income tax return as evidence of gross annual 49929
 income. 49930

Footnote b. The number of dependents includes the liable 49931

relative but excludes ~~the patient or~~ a resident in the hospital ~~or~~ 49932
an institution. "Dependent" includes any person who receives more 49933
than half the person's support from the ~~patient~~ resident, 49934
recipient, or the ~~patient's~~ resident's or recipient's liable 49935
relative. 49936

(3) A ~~patient or~~ resident, recipient, or liable relative 49937
having medical, funeral, or related expenses in excess of four per 49938
cent of the adjusted gross annual income, which expenses were not 49939
covered by insurance, may adjust such gross annual income by 49940
reducing the adjusted gross annual income by the full amount of 49941
such expenses. Proof of such expenses satisfactory to the 49942
department must be furnished. 49943

(4) Additional dependencies may be claimed if: 49944

(a) The liable relative is blind; 49945

(b) The liable relative is over sixty-five; 49946

(c) A child is a college student with expenses in excess of 49947
fifty dollars per month; 49948

(d) The services of a housekeeper, costing in excess of fifty 49949
dollars per month, are required if the person who normally keeps 49950
house for minor children is the ~~patient or~~ resident or recipient. 49951

(5) If with respect to any ~~patient or~~ resident or recipient 49952
with dependents there is chargeable under division (B)(2) of this 49953
section less than fifty per cent of the applicable cost or, if the 49954
base support rate was used, less than fifty per cent of the amount 49955
determined by use of the base support rate, and if with respect to 49956
such ~~patient or~~ resident or recipient there is a liable relative 49957
who has an estate having a value in excess of fifteen thousand 49958
dollars or if such ~~patient or~~ resident or recipient has a 49959
dependent and an estate having a value in excess of fifteen 49960
thousand dollars, there shall be paid with respect to such ~~patient~~ 49961

~~or~~ resident or recipient a total of fifty per cent of the 49962
applicable cost or the base support rate amount, as the case may 49963
be, on a current basis or there shall be executed with respect to 49964
such ~~patient~~ ~~or~~ resident or recipient an agreement with the 49965
department for payment to be made at some future date under terms 49966
suitable to the department. 49967

(6) When a person has been a ~~patient~~ ~~or~~ resident or recipient 49968
for fifteen years and the support charges for which a relative is 49969
liable have been paid for the fifteen-year period, the liable 49970
relative shall be relieved of any further support charges. 49971

(7) The department shall accept voluntary payments from 49972
~~patients~~ ~~or~~ residents, recipients, or liable relatives whose 49973
incomes are below the minimum shown in the schedule set forth in 49974
this division. The department also shall accept voluntary payments 49975
in excess of required amounts from both liable and nonliable 49976
relatives. 49977

(8) If a ~~patient~~ ~~or~~ resident or recipient is covered by an 49978
insurance policy, or other contract that provides for payment of 49979
expenses for care and treatment for mental illness or mental 49980
retardation at or from an institution, or facility (including a 49981
~~hospital~~ ~~or~~ community service unit under the jurisdiction of the 49982
department), or state-operated community mental health service, 49983
the other provisions of this section, except divisions (B)(8), 49984
(10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of 49985
the Revised Code shall be suspended to the extent that such 49986
insurance policy or other contract is in force, and such ~~patient~~ 49987
~~or~~ resident or recipient shall be charged the full amount of the 49988
applicable cost. Any insurance carrier or other third party payor 49989
providing coverage for such care and treatment shall pay for this 49990
support obligation in an amount equal to the lesser of either the 49991
applicable cost or the benefits provided under the policy or other 49992
contract. Whether or not an insured, owner of, or other person 49993

having an interest in such policy or other contract is liable for 49994
support payments under other provisions of this chapter, the 49995
insured, policy owner, or other person shall assign payment 49996
directly to the department of all assignable benefits under the 49997
policy or other contract and shall pay over to the department, 49998
within ten days of receipt, all insurance or other benefits 49999
received as reimbursement or payment for expenses incurred by the 50000
~~patient~~ or resident or recipient or for any other reason. If the 50001
insured, policy owner, or other person refuses to assign such 50002
payment to the department or refuses to pay such received 50003
reimbursements or payments over to the department within ten days 50004
of receipt, the insured's, policy owners', or other person's total 50005
liability for the services equals the applicable statutory 50006
liability for payment for the services as determined under other 50007
provisions of this chapter, plus the amounts payable under the 50008
terms of the policy or other contract. In no event shall this 50009
total liability exceed the full amount of the applicable cost. 50010
Upon its request, the department is entitled to a court order that 50011
compels the insured, owner of, or other person having an interest 50012
in the policy or other contract to comply with the assignment 50013
requirements of this division or that itself serves as a legally 50014
sufficient assignment in compliance with such requirements. 50015
Notwithstanding section 5122.31 of the Revised Code and any other 50016
law relating to confidentiality of records, the managing officer 50017
of the institution or facility where a person is or has been a 50018
~~patient~~ or resident, or the managing officer of the state-operated 50019
community mental health services from which the ~~patient~~ recipient 50020
receives services, shall disclose pertinent medical information 50021
concerning the ~~patient~~ or resident or recipient to the insurance 50022
carrier or other third party payor in question, in order to effect 50023
collection from the carrier or payor of the state's claim for care 50024
and treatment under this division. For such disclosure, the 50025
managing officer is not subject to any civil or criminal 50026

liability. 50027

(9) The rate to be charged for pre-admission care, 50028
after-care, day-care, or routine consultation and treatment 50029
services shall be based upon the ability of the ~~patient or~~ 50030
~~resident or the patient's or~~ resident's liable relatives to pay. 50031
When it is determined by the department that a charge shall be 50032
made, such charge shall be computed as provided in divisions 50033
(B)(1) and (2) of this section. 50034

(10) If a ~~patient or~~ resident or recipient with or without 50035
dependents is the beneficiary of a trust created pursuant to 50036
section 1339.51 of the Revised Code, then, notwithstanding any 50037
contrary provision of this chapter or of a rule adopted pursuant 50038
to this chapter, divisions (C) and (D) of that section shall apply 50039
in determining the assets or resources of the ~~patient or~~ resident, 50040
the recipient, the ~~patient's or~~ resident's or recipient's estate, 50041
the settlor, or the settlor's estate and to claims arising under 50042
this chapter against the ~~patient or~~ resident, the recipient, the 50043
~~patient's or~~ resident's or recipient's estate, the settlor, or the 50044
settlor's estate. 50045

(11) If the department of mental retardation and 50046
developmental disabilities waives the liability of an individual 50047
and the individual's liable relatives pursuant to section 5123.194 50048
of the Revised Code, the liability of the individual and relative 50049
ceases in accordance with the waiver's terms. 50050

(C) The department may enter into agreements with a ~~patient~~ 50051
~~or~~ resident, a recipient, or a liable relative for support 50052
payments to be made in the future. However, no security interest, 50053
mortgage, or lien shall be taken, granted, or charged against any 50054
principal family residence of a ~~patient or~~ resident or recipient 50055
with dependents or a liable relative under an agreement or 50056
otherwise to secure support payments, and no foreclosure actions 50057
shall be taken on security interests, mortgages or liens taken, 50058

granted, or charged against principal residences of ~~patients or~~ 50059
residents, recipients, or liable relatives prior to October 7, 50060
1977. 50061

(D) The department shall make all investigations and 50062
determinations required by this section within ninety days after a 50063
~~patient or~~ resident is admitted to an institution under the 50064
department's control or a ~~patient~~ recipient begins to receive 50065
state-operated community mental health services, and immediately 50066
shall notify by mail the persons liable of the amount to be 50067
charged. 50068

(E) All actions to enforce the collection of payments agreed 50069
upon or charged by the department shall be commenced within six 50070
years after the date of default of an agreement to pay support 50071
charges or the date such payment becomes delinquent. If a payment 50072
is made pursuant to an agreement which is in default, a new 50073
six-year period for actions to enforce the collection of payments 50074
under such agreement shall be computed from the date of such 50075
payment. For purposes of this division an agreement is in default 50076
or a payment is delinquent if a payment is not made within thirty 50077
days after it is incurred or a payment, pursuant to an agreement, 50078
is not made within thirty days after the date specified for such 50079
payment. In all actions to enforce the collection of payment for 50080
the liability for support, every court of record shall receive 50081
into evidence the proof of claim made by the state together with 50082
all debts and credits, and it shall be prima-facie evidence of the 50083
facts contained in it. 50084

Sec. 5121.05. The department of mental health and the 50085
department of mental retardation and developmental disabilities 50086
may subpoena witnesses, take testimony under oath, and examine any 50087
public records relating to the income and other assets of a 50088
~~patient or~~ resident, recipient, or of a relative liable for such 50089

~~patient's or~~ resident's or recipient's support. All information, 50090
conclusions, and recommendations shall be submitted to the 50091
department by the investigating agent of the department. The 50092
department shall determine the amount of support to be paid, by 50093
whom, and whether clothing shall be furnished by the relatives or 50094
guardian. 50095

Sec. 5121.06. (A) The following persons other than the 50096
~~patient or~~ resident, the recipient, or the ~~patient's or~~ resident's 50097
or recipient's estate are liable relatives and all the following 50098
persons are jointly and severally liable for the support of a 50099
~~patient or~~ resident in a ~~hospital or~~ institution under the control 50100
of ~~the department of mental health or~~ the department of mental 50101
retardation and developmental disabilities or for the support of a 50102
~~patient receiving~~ recipient of state-operated community mental 50103
health services: 50104

(1) The ~~patient or~~ resident, the recipient, or the ~~patient's~~ 50105
~~or~~ resident's or recipient's estate; 50106

(2) The ~~patient's or~~ resident's or recipient's spouse; 50107

(3) The father or mother, or both, of a minor ~~patient or~~ 50108
resident or recipient under the age of eighteen years. 50109

(B) The department shall determine, pursuant to section 50110
5121.04 of the Revised Code, the amount to be charged each such 50111
liable person in the order named in this section, but shall not 50112
collect from any person more than one hundred per cent of the 50113
applicable cost. 50114

(C) An action to collect delinquent payments or to enforce 50115
agreements in default may be brought against any or all persons 50116
named in this section. To the extent parents of adult ~~patients or~~ 50117
residents or recipients, pursuant to the language of this section 50118
previously in force, incurred charges for the support of such 50119

~~patients or~~ residents or recipients between the eighteenth 50120
birthday of such ~~patient or~~ resident or recipient and July 1, 50121
1975, their liability for such period may be cancelled, 50122
compromised, or settled as provided in section 5121.07 of the 50123
Revised Code. 50124

(D) Irrespective of the number of ~~patients or~~ residents or 50125
recipients whose care might be chargeable against a liable 50126
relative, no individual liable relative nor any group of liable 50127
relatives who are members of the same family unit shall be charged 50128
with the support of more than one ~~patient or~~ resident or recipient 50129
during the same period of time, and different periods of time for 50130
which such liable relative has paid the charges for such different 50131
~~patients' or~~ residents' or recipients' care and support shall be 50132
added together for the purpose of completing the maximum 50133
fifteen-year period of liability of such liable relative under 50134
division (B)(6) of section 5121.04 of the Revised Code. 50135

Sec. 5121.061. The authority of the department of mental 50136
health or the department of mental retardation and developmental 50137
disabilities to modify support charges pursuant to section 5121.04 50138
of the Revised Code shall not be exercised until the ~~patient or~~ 50139
resident, recipient, or liable relative has petitioned the 50140
department for modification as provided in section 5121.07 of the 50141
Revised Code and has offered to the department satisfactory proof 50142
of ~~his~~ the resident's, recipient's, or liable relative's earnings 50143
and assets. The department may modify the charges if its 50144
investigation warrants such modification. 50145

Sec. 5121.07. Any person who has been charged with the 50146
payment of the support of a ~~patient or~~ resident of any benevolent 50147
institution; for pre-admission care, after-care, day-care, or 50148
routine consultation and treatment services in a community service 50149
unit under the control of ~~the department of mental health or~~ the 50150

department of mental retardation and developmental disabilities; 50151
or for the cost of state-operated community mental health services 50152
may petition the department for a release from, or modification 50153
of, such charge, and the department, after an investigation, may 50154
cancel or modify such former charge, or may cancel, compromise, or 50155
settle any accrued liability in an amount not exceeding five 50156
thousand dollars. Amounts in excess thereof may be canceled, 50157
compromised, or settled as provided in section 131.02 of the 50158
Revised Code. The department may for due cause increase the amount 50159
previously ordered paid. 50160

Sec. 5121.08. The managing officers of the benevolent 50161
institutions under the control of ~~the department of mental health~~ 50162
~~and~~ the department of mental retardation and developmental 50163
disabilities, the managing officers of state-operated community 50164
mental health services, and the committing court, if requested, 50165
shall submit to the department such information as they may obtain 50166
concerning the financial condition of any ~~patient or resident,~~ 50167
recipient, or of relatives liable for the ~~patient's or resident's~~ 50168
or recipient's support. 50169

Sec. 5121.09. In case the estate of any ~~patient or resident~~ 50170
in a benevolent institution under the jurisdiction of ~~the~~ 50171
~~department of mental health or~~ the department of mental 50172
retardation and developmental disabilities or ~~receiving~~ recipient 50173
of state-operated community mental health services is sufficient 50174
for the ~~patient's or resident's~~ or recipient's support, without 50175
hardship to any others who may be dependent thereon, and no 50176
guardian has been appointed for such estate, the agent of the 50177
department shall petition the probate court of the proper county 50178
to appoint a guardian. 50179

Sec. 5121.10. Upon the death of a person who is a ~~patient or~~ 50180

resident, or has been a ~~patient or~~ resident, of any benevolent 50181
institution under the jurisdiction of ~~the department of mental~~ 50182
~~health or~~ the department of mental retardation and developmental 50183
disabilities or of a person who is a recipient or has been a 50184
recipient of state-operated community mental health services, or 50185
~~upon the death~~ of a person responsible under section 5121.06 of 50186
the Revised Code for the support of a ~~patient or~~ resident or 50187
recipient, the department may waive the presentation of any claim 50188
for support against the estate of such decedent, when in its 50189
judgment an otherwise dependent person will be directly benefited 50190
by the estate. Claims against an estate for support of a ~~patient~~ 50191
~~or~~ resident or recipient are subject to section 1339.51 and 50192
Chapter 2117. of the Revised Code, and shall be treated, and may 50193
be barred, the same as the claims of other creditors of the 50194
estate, pursuant to that section or chapter. 50195

The department may accept from a guardian or trustee of a 50196
~~patient or~~ resident or recipient a contract agreeing to pay to the 50197
state from the property of the guardian's or trustee's ward before 50198
or at the death of the ward a fixed annual amount for the support 50199
of the ward while the ward is a ~~patient or~~ resident or recipient, 50200
with interest at four per cent per annum. A copy of the contract 50201
shall be filed in the probate court of the proper county and duly 50202
entered as a part of the records concerning the ward. 50203

Sec. 5121.11. The state shall bear the expense of the burial 50204
or cremation of an indigent ~~patient or~~ resident who dies in a 50205
~~state hospital for the mentally ill, or an~~ institution for the 50206
mentally retarded, or in a state correctional institution, if the 50207
body is not claimed for interment or cremation at the expense of 50208
friends or relatives, or is not delivered for anatomical purposes 50209
or for the study of embalming in accordance with section 1713.34 50210
of the Revised Code. The managing officer of the institution shall 50211
provide at the grave of the person or, if the person's cremated 50212

remains are buried, at the grave of the person's cremated remains, 50213
a metal, stone, or concrete marker on which shall be inscribed the 50214
name and age of the person and the date of death. 50215

Sec. 5121.12. The support and maintenance of ~~patients~~ 50216
~~confined in state hospitals for the mentally ill or of~~ residents 50217
confined in state institutions for the mentally retarded, 50218
including those transferred to them from state correctional 50219
institutions, and also including persons under indictment or 50220
conviction for crime, shall be collected and paid in accordance 50221
with this chapter. 50222

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state 50223
under the provisions of Chapter 5121. of the Revised Code is made 50224
on account of a ~~patient or~~ resident or recipient by any liable 50225
relative, as defined in division (A) of section 5121.06 of the 50226
Revised Code, such relative may recover the following amounts from 50227
the following persons; provided, that in no event may such 50228
relative recover in total more than such relative has paid the 50229
state, and provided, that in no event is the person from whom 50230
recovery is sought obliged to pay at a rate of support higher than 50231
such person would have paid had the state proceeded directly 50232
against such person: 50233

~~(1)~~(A) Any liable person may recover from the ~~patient or~~ 50234
resident or recipient, ~~his~~ the resident's or recipient's guardian, 50235
or from the executor or administrator of the ~~patient's or~~ 50236
resident's or recipient's estate, the full amount of payment made 50237
by such liable relative. 50238

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 50239
resident's ~~husband or wife,~~ or recipient's spouse the full amount 50240
of payment made by such liable relative. 50241

~~(3)~~(C) A minor ~~patient's or~~ resident's or recipient's mother 50242

may recover from such minor ~~patient's or resident's~~ or recipient's 50243
father the full amount of payment made by such mother. 50244

~~(4)(D)~~ Any liable relative, other than the ~~patient's or~~ 50245
~~resident's or recipient's~~ spouse ~~and other than~~ or a minor 50246
~~patient's or resident's or recipient's~~ parent, may recover from 50247
such ~~of a patient's or resident's or recipient's~~ adult ~~sons and~~ 50248
~~daughters~~ children as are liable under division (A)(4) of section 50249
5121.06 of the Revised Code, the full amount of payment made by 50250
such liable relative; provided, that there may be recovered from 50251
each such ~~son or daughter~~ adult child only such proportion of the 50252
total payment as the figure one bears to the total number of such 50253
adult ~~sons and daughters~~ children. 50254

~~(5)(E)~~ An adult ~~patient's or resident's~~ or recipient's mother 50255
may recover from an adult ~~patient's or resident's~~ or recipient's 50256
father the full amount of payment made by such mother. 50257

Sec. 5121.30. As used in sections 5121.30 to 5121.55 of the 50258
Revised Code: 50259

(A) "Countable assets" means all of the following: 50260

(1) Cash; 50261

(2) Bank deposits; 50262

(3) Securities; 50263

(4) Individual retirement accounts; 50264

(5) Qualified employer plans, including 401(k) and Keogh 50265
plans; 50266

(6) Pension funds; 50267

(7) Annuities; 50268

(8) Funds in a trust created under section 1339.51 of the 50269
Revised Code; 50270

<u>(9) Investment property and income;</u>	50271
<u>(10) The cash surrender values of life insurance policies;</u>	50272
<u>(11) Assets acquired by gift, bequest, devise, or inheritance;</u>	50273 50274
<u>(12) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	50275 50276
<u>(B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus 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.</u>	50277 50278 50279 50280 50281 50282 50283
<u>(C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services 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.</u>	50284 50285 50286 50287 50288 50289
<u>(D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.</u>	50290 50291 50292
<u>(E) "Liable relative" means both of the following:</u>	50293
<u>(1) A patient's spouse;</u>	50294
<u>(2) A patient's mother or father, or both, if the patient is under eighteen years of age.</u>	50295 50296
<u>(F) "Patient" means a person admitted to a hospital for inpatient care or treatment.</u>	50297 50298
<u>Sec. 5121.31. All patients shall be maintained at the expense</u>	50299

of the state. The traveling and incidental expenses in conveying 50300
them to a hospital shall be paid by the county of commitment. On 50301
admission, patients shall be neatly and comfortably clothed. 50302
Thereafter, the expense of necessary clothing shall be borne by 50303
the responsible relatives or guardian if they are financially 50304
able. If not furnished, the state shall bear the expense. Any 50305
required traveling expense after admission to the hospital shall 50306
be borne by the state if the responsible relatives or guardian is 50307
unable to do so. 50308

Sec. 5121.32. On an annual basis, the department of mental 50309
health shall determine both of the following using generally 50310
accepted governmental accounting principles: 50311

(A) The applicable per diem charge for each hospital operated 50312
by the department; 50313

(B) The ancillary per diem rate for each hospital operated by 50314
the department. 50315

In determining a hospital's applicable per diem charge and 50316
ancillary per diem rate, the department shall consider the average 50317
actual per diem cost of maintaining and treating a patient at the 50318
hospital or, at the department's discretion, the average actual 50319
per diem cost of maintaining and treating a patient in a unit of 50320
the hospital. 50321

Sec. 5121.33. Except as provided in sections 5121.35, 50322
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 50323
Code, the department of mental health shall, for each billing 50324
cycle, charge a patient, patient's estate, or liable relative an 50325
amount equal to the sum of the following: 50326

(A) The applicable per diem charge multiplied by the number 50327
of days the patient was admitted to the hospital; 50328

(B) An amount that was previously billed but not paid. 50329

Sec. 5121.34. A patient, patient's estate, and patient's 50330
liable relatives shall be jointly and severally liable for amounts 50331
charged by the department of mental health in accordance with 50332
sections 5121.33 and 5121.35 of the Revised Code. In no case shall 50333
any of the foregoing persons be liable for more than one hundred 50334
per cent of any amount charged. 50335

Sec. 5121.35. The department of mental health shall charge a 50336
patient, patient's estate, or liable relative an amount discounted 50337
from the amount the department charges under section 5121.33 of 50338
the Revised Code if the department determines through the 50339
application process described in section 5121.36 of the Revised 50340
Code or through the financial assessment process described in 50341
section 5121.37 of the Revised Code that the patient, estate, or 50342
relative is eligible for a discount. 50343

Sec. 5121.36. (A) A patient, patient's estate, or liable 50344
relative may apply for a discount by completing an application 50345
form the director of mental health specifies in rules adopted 50346
under section 5121.55 of the Revised Code. The department of 50347
mental health may require a patient, estate, or relative to 50348
furnish any of the following with an application form: 50349

(1) A copy of the patient's, estate's, or liable relative's 50350
federal income tax return for the year preceding the date of 50351
application or, if that is not yet available, the preceding year; 50352

(2) A copy of the patient's, estate's, or liable relative's 50353
employee tax withholding return (form W-2) for the year preceding 50354
the date of application. 50355

(B) To be considered, an application must be submitted to the 50356
department not later than one hundred twenty days after the date 50357

the patient is admitted to a hospital. 50358

(C) From the information provided by a patient, estate, or relative, the department shall determine whether the department will charge the person a discounted amount in accordance with sections 5121.40 and 5121.41 of the Revised Code. In making this determination, the department shall consider whether the patient is covered by an insurance policy or other contract that provides for payment of expenses and treatment for mental illness. If the department determines that the patient has coverage, the department shall require payment in accordance with section 5121.43 of the Revised Code. 50359
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(D) The department shall notify the person who submitted the application form in writing regarding whether that person will be charged a discounted amount and the per diem rate to be charged. 50369
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(E) In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the application form was submitted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change. 50372
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Sec. 5121.37. After a patient's admittance to a hospital, the department of mental health shall conduct a financial assessment to determine whether the patient, patient's estate, or liable relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code. 50379
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If a discounted rate is to be charged, the department shall notify the person whose financial condition was assessed. The 50386
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notice shall specify the per diem rate to be charged. 50388

In accordance with section 5121.42 of the Revised Code, the 50389
department may, at any time, modify an amount charged or change 50390
the per diem rate to be charged if the department learns of 50391
countable assets or income that was not previously disclosed or 50392
was acquired after the assessment was conducted. Within a 50393
reasonable time, the department shall notify in writing any person 50394
affected by a modification or change. 50395

Sec. 5121.38. The department of mental health may subpoena 50396
witnesses, take testimony under oath, and examine any public 50397
records relating to the income and other assets of a patient or of 50398
a relative liable for such patient's support. All information, 50399
conclusions, and recommendations shall be submitted to the 50400
department by the investigating agent of the department. 50401

Sec. 5121.39. The managing officers of the institutions under 50402
the control of the department of mental health shall submit to the 50403
department such information as they may obtain concerning the 50404
financial condition of any patient or relatives liable for the 50405
patient's support. 50406

Sec. 5121.40. (A) A patient, patient's estate, or liable 50407
relative may be eligible to be charged an amount discounted from 50408
the amount the department of mental health charges under section 50409
5121.33 of the Revised Code if the patient, estate, or relative 50410
has countable assets with a total value that is not greater than 50411
an amount equal to fifty per cent of the gross annual income that 50412
corresponds with the family size of the patient, estate, or liable 50413
relative under the federal poverty guidelines. For purposes of 50414
determining family size, the patient is one dependent. One 50415
additional dependent shall be included for each of the following 50416
circumstances and persons: 50417

<u>(1) The patient or liable relative is legally blind or deaf;</u>	50418
<u>(2) The patient or liable relative is of sixty-five years of age or older;</u>	50419 50420
<u>(3) Each child under eighteen years of age for which the patient or liable relative is legally responsible for support;</u>	50421 50422
<u>(4) The patient's or liable relative's spouse.</u>	50423
<u>(B) A patient, estate, or relative may, not later than one hundred twenty days after the patient's admission to a hospital, surrender the value of countable assets sufficient to reduce countable assets to not more than the limit described in division (A) of this section.</u>	50424 50425 50426 50427 50428
<u>Sec. 5121.41. (A) If the assets of a patient, patient's estate, or liable relative do not exceed the countable asset limit in section 5121.40 of the Revised Code and the annual income of the patient, estate, or relative does not exceed four hundred per cent of the federal poverty level, the patient, estate, or relative shall be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code for the first thirty days the patient is admitted as an inpatient in a hospital. The amount of the discount shall be computed according to the following schedule:</u>	50429 50430 50431 50432 50433 50434 50435 50436 50437 50438
<u>Annual Gross Income</u>	50439
<u>Expressed as a Percentage of FPL</u>	50440
<u>Inpatient</u> <u>1 -</u> <u>176 -</u> <u>200 -</u> <u>250 -</u> <u>300 -</u> <u>350 -</u>	50441
<u>Days at a</u> <u>175</u> <u>199</u> <u>249</u> <u>299</u> <u>349</u> <u>399</u>	50442
<u>Hospital</u>	50443
<u>Percentage discount from charged amount</u>	50444
<u>1 - 14</u> <u>100</u> <u>90</u> <u>70</u> <u>50</u> <u>30</u> <u>10</u>	50445
<u>15 - 30</u> <u>100</u> <u>95</u> <u>75</u> <u>55</u> <u>35</u> <u>15</u>	50446
<u>(B) A patient, estate, or relative who is charged a</u>	50447

discounted amount for the first thirty days the patient is 50448
admitted as an inpatient and who has an annual income not greater 50449
than one hundred seventy-five per cent of the federal poverty 50450
level shall not be charged for the days the patient is admitted 50451
beyond the thirtieth day. 50452

(C) A patient, estate, or relative who is charged a 50453
discounted amount for the first thirty days the patient is 50454
admitted as an inpatient and who has an annual income greater than 50455
one hundred seventy-five per cent of the federal poverty level 50456
shall be charged an amount equal to the sum of the following for 50457
the days the patient is admitted beyond the thirtieth day: 50458

(1) The ancillary per diem rate multiplied by the number of 50459
days the patient was admitted to the hospital; 50460

(2) An amount that was previously charged but not paid. 50461

Sec. 5121.42. (A) Except as provided in division (B) of this 50462
section, a patient, patient's estate, or liable relative shall 50463
cease to be eligible for a discount under sections 5121.36 or 50464
5121.37 of the Revised Code on accumulation of countable assets in 50465
excess of an amount equal to fifty per cent of the gross annual 50466
income that corresponds with the family size of the patient, 50467
estate, or relative plus one additional dependent under the 50468
federal poverty guidelines. In making this determination, an 50469
additional dependent shall be included for each of the following 50470
circumstances and persons: 50471

(1) The patient or liable relative is legally blind or deaf; 50472

(2) The patient or liable relative is over sixty-five years 50473
of age; 50474

(3) Each child under eighteen years of age for which the 50475
patient or liable relative is legally responsible for support; 50476

(4) The patient's or liable relative's spouse. 50477

(B) Money needed to meet the patient's needs and burial fund 50478
as determined by a needs assessment conducted by the department of 50479
mental health pursuant to rules adopted under section 5119.01 of 50480
the Revised Code shall be excluded from any determination the 50481
department makes under division (A) of this section. 50482

Sec. 5121.43. If a patient is covered by an insurance policy 50483
or other contract that provides for payment of expenses for care 50484
and treatment for mental illness at or from an institution, 50485
state-operated community mental health service, or facility, 50486
including a hospital or community service unit under the 50487
jurisdiction of the department of mental health, sections 5121.33 50488
to 5121.55 of the Revised Code are inapplicable to the extent that 50489
the policy or contract is in force. Any insurance carrier or other 50490
third party payor providing coverage for such care and treatment 50491
shall pay for the patient's support obligation in amounts equal to 50492
the lesser of amounts charged by the department under section 50493
5121.33 of the Revised Code or the benefits provided under the 50494
policy or other contract. Whether or not an insured, owner of, or 50495
other person having an interest in such policy or other contract 50496
is liable for support payments, the insured, policy owner, or 50497
other person shall assign payment directly to the department of 50498
all assignable benefits under the policy or other contract and 50499
shall pay to the department, within ten days of receipt, all 50500
insurance or other benefits received as reimbursement or payment 50501
for expenses incurred by the patient or for any other reason. If 50502
the insured, policy owner, or other person refuses to assign 50503
payment to the department or refuses to pay received 50504
reimbursements or payments to the department within ten days of 50505
receipt, the total liability of the insured, policy owner, or 50506
other person for the services equals the sum of the following: 50507

(A) The amount computed under section 5121.33 of the Revised 50508

Code: 50509

(B) The amounts payable under the terms of the policy or other contract. 50510
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In no event shall this total liability exceed the department's actual cost of providing care and treatment to a patient. The department may disqualify patients and liable relatives who have retained third party funds for future discounts. The department may request that the attorney general petition a court of competent jurisdiction to compel the insured, owner of, or other person having an interest in the policy or contract to comply with the assignment requirements in this section. 50512
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Sec. 5121.44. The department of mental health may enter into an extended payment agreement with a patient, patient's estate, or liable relative who has notified the department that the patient, estate, or relative cannot reasonably pay an amount the department has charged. In no case shall the department take a security interest, mortgage, or lien against the principal family residence of a patient or liable relative with a dependent. 50521
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Sec. 5121.45. (A) For purposes of this section, "delinquent payment" means an amount owed by a patient, patient's estate, or liable relative to the department of mental health for which the person has failed to do either of the following not later than ninety days after the service associated with the charge was incurred: 50528
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(1) Make payment in full; 50534

(2) Make a payment in accordance with the terms of an agreement entered into under section 5121.44 of the Revised Code. 50535
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(B) An action to enforce the collection of a delinquent 50537

payment shall be commenced not later than six years after the 50538
later of the following: 50539

(1) The last date the department received money to satisfy 50540
the delinquent payment; 50541

(2) The date the charge was due. 50542

(C) In all actions to enforce the collection of delinquent 50543
payments, a court of record shall receive into evidence the proof 50544
of claim document made by the state together with all debts and 50545
credits. The proof of claim document shall be prima-facie evidence 50546
of the facts stated in the document. 50547

Sec. 5121.46. The department of mental health shall not 50548
charge a liable relative under sections 5121.33 and 5121.35 of the 50549
Revised Code who has done either of the following: 50550

(A) Paid all amounts charged by the department for the care 50551
and treatment of a particular patient for fifteen consecutive 50552
years; 50553

(B) Paid amounts charged by the department for the care and 50554
treatment of more than one patient for a total of fifteen 50555
consecutive years. 50556

Sec. 5121.47. Irrespective of the number of patients for 50557
which the department of mental health may charge a liable relative 50558
under sections 5121.33 or 5121.35 of the Revised Code, the 50559
department shall not charge a liable relative or group of liable 50560
relatives who are members of the same family unit for the support 50561
of more than one patient during the same period of time. 50562

Sec. 5121.49. (A) Any person who has been charged under 50563
section 5121.33 or 5121.35 of the Revised Code may petition the 50564
department of mental health to do the following: 50565

<u>(1) Release the person from a charge;</u>	50566
<u>(2) Modify or cancel a charge.</u>	50567
<u>(B) The department shall respond to a petition in writing and</u>	50568
<u>inform the petitioner of whether a release, modification, or</u>	50569
<u>cancellation has been approved.</u>	50570
<u>Sec. 5121.50. When a patient is committed to a hospital</u>	50571
<u>pursuant to judicial proceedings, the judge ordering the</u>	50572
<u>commitment shall:</u>	50573
<u>(A) Make a reliable report on the financial condition of the</u>	50574
<u>patient and of each liable relative, as provided in rules adopted</u>	50575
<u>by the director of mental health;</u>	50576
<u>(B) Certify the report required under division (A) of this</u>	50577
<u>section to the managing officer of the hospital. The managing</u>	50578
<u>officer shall thereupon enter in the managing officer's records</u>	50579
<u>the name and address of any guardian appointed and of any relative</u>	50580
<u>liable for the patient's support.</u>	50581
<u>Sec. 5121.51. In case the estate of any patient in a hospital</u>	50582
<u>is sufficient for the patient's support, without hardship to any</u>	50583
<u>others who may be dependent thereon, and no guardian has been</u>	50584
<u>appointed for such estate, the agent of the department of mental</u>	50585
<u>health shall petition the probate court of the proper county to</u>	50586
<u>appoint a guardian.</u>	50587
<u>Sec. 5121.52. On the death of a person who is a patient, or</u>	50588
<u>has been a patient in a hospital, or on the death of a person</u>	50589
<u>responsible under section 5121.34 of the Revised Code for the</u>	50590
<u>support of a patient, the department of mental health may waive</u>	50591
<u>the presentation of any claim for support against the estate of</u>	50592
<u>such decedent, when in its judgment an otherwise dependent person</u>	50593
<u>will be directly benefited by the estate. Claims against an estate</u>	50594

for support of a patient are subject to section 1339.51 and 50595
Chapter 2117. of the Revised Code, and shall be treated, and may 50596
be barred, the same as the claims of other creditors of the 50597
estate, pursuant to that section or chapter. 50598

The department of mental health may accept from a guardian or 50599
trustee of a patient a contract agreeing to pay to the state from 50600
the property of the guardian's or trustee's ward before or at the 50601
death of the ward a fixed annual amount for the support of the 50602
ward while the ward is a patient, with interest at four per cent 50603
per annum. A copy of the contract shall be filed in the probate 50604
court of the proper county and duly entered as a part of the 50605
records concerning the ward. 50606

Sec. 5121.53. The state shall bear the expense of the burial 50607
or cremation of an indigent patient who dies in a hospital if the 50608
body is not claimed for interment or cremation at the expense of 50609
friends or relatives, or is not delivered for anatomical purposes 50610
or for the study of embalming in accordance with section 1713.34 50611
of the Revised Code. The managing officer of the hospital shall 50612
provide at the grave of the patient or, if the patient's cremated 50613
remains are buried, at the grave of the patient's cremated 50614
remains, a metal, stone, or concrete marker on which shall be 50615
inscribed the name and age of the patient and the date of death. 50616

Sec. 5121.54. (A) If payment of any amount due the state 50617
under the provisions of this chapter is made on account of a 50618
patient by any liable relative, as defined in section 5121.30 of 50619
the Revised Code, the relative may recover the following amounts 50620
from the following persons; provided, that in no event may a 50621
relative recover in total more than the relative has paid the 50622
state, and provided, that in no event is the person from whom 50623
recovery is sought obliged to pay at a rate of support higher than 50624

the person would have paid had the state proceeded directly 50625
against that person: 50626

(1) A liable relative may recover from the patient, the 50627
patient's guardian, or from the executor or administrator of the 50628
patient's estate, the full amount of payment made by the liable 50629
relative. 50630

(2) A parent may recover from the patient's or resident's 50631
spouse the full amount of payment made by the parent for 50632
hospitalization that occurred during the marriage. 50633

Sec. 5121.55. The director of mental health shall adopt rules 50634
in accordance with Chapter 119. of the Revised Code regarding the 50635
application form a person must use to apply for a discount as 50636
described in section 5121.36 of the Revised Code. 50637

Sec. 5122.03. A patient admitted under section 5122.02 of the 50638
Revised Code who requests ~~his~~ release in writing, or whose release 50639
is requested in writing by ~~his~~ the patient's counsel, legal 50640
guardian, parent, spouse, or adult next of kin shall be released 50641
forthwith, except that when: 50642

(A) The patient was admitted on ~~his~~ the patient's own 50643
application and the request for release is made by a person other 50644
than the patient, release may be conditional upon the agreement of 50645
the patient; or 50646

(B) The chief clinical officer of the hospital, within three 50647
court days from the receipt of the request for release, files or 50648
causes to be filed with the court of the county where the patient 50649
is hospitalized or of the county where the patient is a resident, 50650
an affidavit under section 5122.11 of the Revised Code. Release 50651
may be postponed until the hearing held under section 5122.141 of 50652
the Revised Code. A telephone communication within three court 50653
days from the receipt of the request for release from the chief 50654

clinical officer to the court, indicating that the required 50655
affidavit has been mailed, is sufficient compliance with the time 50656
limit for filing such affidavit. 50657

Unless the patient is released within three days from the 50658
receipt of the request by the chief clinical officer, the request 50659
shall serve as a request for an initial hearing under section 50660
5122.141 of the Revised Code. If the court finds that the patient 50661
is a mentally ill person subject to hospitalization by court 50662
order, all provisions of this chapter with respect to involuntary 50663
hospitalization apply to such person. 50664

Judicial proceedings for hospitalization shall not be 50665
commenced with respect to a voluntary patient except pursuant to 50666
this section. 50667

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.55 of the Revised 50668
Code apply to persons received in a hospital operated by the 50669
department of mental health on a voluntary application. 50670

The chief clinical officer of the hospital shall provide 50671
reasonable means and arrangements for informing patients of their 50672
rights to release as provided in this section and for assisting 50673
them in making and presenting requests for release or for a 50674
hearing under section 5122.141 of the Revised Code. 50675

Before a patient is released from a public hospital, the 50676
chief clinical officer shall, when possible, notify the board of 50677
the patient's county of residence of the patient's pending release 50678
after ~~he~~ the chief clinical officer has informed the patient that 50679
the board will be so notified. 50680

Sec. 5122.04. (A) Upon the request of a minor fourteen years 50681
of age or older, a mental health professional may provide 50682
outpatient mental health services, ~~excluding the use of medication~~ 50683
or a person working for or on behalf of a tobacco cessation 50684

program may provide tobacco cessation counseling, without the 50685
consent or knowledge of the minor's parent or guardian. ~~Except~~ The 50686
services or counseling shall not include the use of medication. 50687

Except as otherwise provided in this section, in the case of 50688
mental health services, the minor's parent or guardian shall not 50689
be informed of the services without the minor's consent unless the 50690
mental health professional treating the minor determines that 50691
there is a compelling need for disclosure based on a substantial 50692
probability of harm to the minor or to other persons, and if the 50693
minor is notified of the mental health professional's intent to 50694
inform the minor's parent, or guardian. 50695

(B) Services or counseling provided to a minor pursuant to 50696
this section shall be limited to not more than six sessions or 50697
thirty days of services or counseling whichever occurs sooner. 50698
After the sixth session or thirty days of services or counseling 50699
the mental health professional or person working for or on behalf 50700
of the tobacco cessation program shall terminate the services or 50701
counseling or, with the consent of the minor, notify the parent, 50702
or guardian, to obtain consent to provide further outpatient 50703
services or tobacco cessation counseling. 50704

(C) The minor's parent or guardian shall not be liable for 50705
the costs of services which are received by a minor under division 50706
(A). 50707

(D) Nothing in this section relieves a mental health 50708
professional from the obligations of section 2151.421 of the 50709
Revised Code. 50710

(E) As used in this section, "mental health professional" has 50711
the same meaning as in section 340.02 of the Revised Code. 50712

Sec. 5122.31. (A) All certificates, applications, records, 50713
and reports made for the purpose of this chapter and sections 50714

2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

~~(A)~~(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

~~(B)~~(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

~~(D)~~(4) Pursuant to a court order signed by a judge;

~~(E)~~(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

~~(F)~~(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current

agreement for patient care or services. Records and information 50746
that may be released pursuant to this division shall be limited to 50747
medication history, physical health status and history, financial 50748
status, summary of course of treatment in the hospital, summary of 50749
treatment needs, and a discharge summary, if any. 50750

~~(G)~~(7) That a patient's family member who is involved in the 50751
provision, planning, and monitoring of services to the patient may 50752
receive medication information, a summary of the patient's 50753
diagnosis and prognosis, and a list of the services and personnel 50754
available to assist the patient and the patient's family, if the 50755
patient's treating physician determines that the disclosure would 50756
be in the best interests of the patient. No such disclosure shall 50757
be made unless the patient is notified first and receives the 50758
information and does not object to the disclosure. 50759

~~(H)~~(8) That community mental health agencies may exchange 50760
psychiatric records and certain other information with the board 50761
of alcohol, drug addiction, and mental health services and other 50762
agencies in order to provide services to a person involuntarily 50763
committed to a board. Release of records under this division shall 50764
be limited to medication history, physical health status and 50765
history, financial status, summary of course of treatment, summary 50766
of treatment needs, and discharge summary, if any. 50767

~~(I)~~(9) That information may be disclosed to the executor or 50768
the administrator of an estate of a deceased patient when the 50769
information is necessary to administer the estate; 50770

~~(J)~~(10) That records in the possession of the Ohio historical 50771
society may be released to the closest living relative of a 50772
deceased patient upon request of that relative; 50773

~~(K)~~(11) That information may be disclosed to staff members of 50774
the appropriate board or to staff members designated by the 50775
director of mental health for the purpose of evaluating the 50776

quality, effectiveness, and efficiency of services and determining 50777
if the services meet minimum standards. Information obtained 50778
during such evaluations shall not be retained with the name of any 50779
patient. 50780

~~(I)~~(12) That records pertaining to the patient's diagnosis, 50781
course of treatment, treatment needs, and prognosis shall be 50782
disclosed and released to the appropriate prosecuting attorney if 50783
the patient was committed pursuant to section 2945.38, 2945.39, 50784
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 50785
attorney designated by the board for proceedings pursuant to 50786
involuntary commitment under this chapter. 50787

~~(M)~~(13) That the department of mental health may exchange 50788
psychiatric hospitalization records, other mental health treatment 50789
records, and other pertinent information with the department of 50790
rehabilitation and correction to ensure continuity of care for 50791
inmates who are receiving mental health services in an institution 50792
of the department of rehabilitation and correction. The department 50793
shall not disclose those records unless the inmate is notified, 50794
receives the information, and does not object to the disclosure. 50795
The release of records under this division is limited to records 50796
regarding an inmate's medication history, physical health status 50797
and history, summary of course of treatment, summary of treatment 50798
needs, and a discharge summary, if any. 50799

~~(N)~~(14) That a community mental health agency that ceases to 50800
operate may transfer to either a community mental health agency 50801
that assumes its caseload or to the board of alcohol, drug 50802
addiction, and mental health services of the service district in 50803
which the patient resided at the time services were most recently 50804
provided any treatment records that have not been transferred 50805
elsewhere at the patient's request. 50806

~~(O)~~(B) Before records are disclosed pursuant to divisions 50807
~~(C)~~(A)(3), ~~(F)~~(6), and ~~(H)~~(8) of this section, the custodian of 50808

the records shall attempt to obtain the patient's consent for the 50809
disclosure. No person shall reveal the contents of a medical 50810
record of a patient except as authorized by law. 50811

(C) The managing officer of a hospital who releases necessary 50812
medical information under division (A)(3) of this section to allow 50813
an insurance carrier or other third party payor to comply with 50814
section 5121.43 of the Revised Code shall neither be subject to 50815
criminal nor civil liability. 50816

Sec. 5123.01. As used in this chapter: 50817

(A) "Chief medical officer" means the licensed physician 50818
appointed by the managing officer of an institution for the 50819
mentally retarded with the approval of the director of mental 50820
retardation and developmental disabilities to provide medical 50821
treatment for residents of the institution. 50822

(B) "Chief program director" means a person with special 50823
training and experience in the diagnosis and management of the 50824
mentally retarded, certified according to division (C) of this 50825
section in at least one of the designated fields, and appointed by 50826
the managing officer of an institution for the mentally retarded 50827
with the approval of the director to provide habilitation and care 50828
for residents of the institution. 50829

(C) "Comprehensive evaluation" means a study, including a 50830
sequence of observations and examinations, of a person leading to 50831
conclusions and recommendations formulated jointly, with 50832
dissenting opinions if any, by a group of persons with special 50833
training and experience in the diagnosis and management of persons 50834
with mental retardation or a developmental disability, which group 50835
shall include individuals who are professionally qualified in the 50836
fields of medicine, psychology, and social work, together with 50837
such other specialists as the individual case may require. 50838

(D) "Education" means the process of formal training and 50839
instruction to facilitate the intellectual and emotional 50840
development of residents. 50841

(E) "Habilitation" means the process by which the staff of 50842
the institution assists the resident in acquiring and maintaining 50843
those life skills that enable the resident to cope more 50844
effectively with the demands of the resident's own person and of 50845
the resident's environment and in raising the level of the 50846
resident's physical, mental, social, and vocational efficiency. 50847
Habilitation includes but is not limited to programs of formal, 50848
structured education and training. 50849

~~(F) "Habilitation center services" means services provided by 50850
a habilitation center certified by the department of mental 50851
retardation and developmental disabilities under section 5123.041 50852
of the Revised Code and covered by the medicaid program pursuant 50853
to rules adopted under section 5111.041 of the Revised Code. 50854~~

~~(G)~~ "Health officer" means any public health physician, 50855
public health nurse, or other person authorized or designated by a 50856
city or general health district. 50857

~~(H)~~(G) "Home and community-based services" means 50858
medicaid-funded home and community-based services specified in 50859
division (B)(1) of section 5111.87 of the Revised Code provided 50860
under the medicaid waiver components the department of mental 50861
retardation and developmental disabilities administers pursuant to 50862
section 5111.871 of the Revised Code. 50863

~~(I)~~(H) "Indigent person" means a person who is unable, 50864
without substantial financial hardship, to provide for the payment 50865
of an attorney and for other necessary expenses of legal 50866
representation, including expert testimony. 50867

~~(J)~~(I) "Institution" means a public or private facility, or a 50868
part of a public or private facility, that is licensed by the 50869

appropriate state department and is equipped to provide 50870
residential habilitation, care, and treatment for the mentally 50871
retarded. 50872

~~(K)~~(J) "Licensed physician" means a person who holds a valid 50873
certificate issued under Chapter 4731. of the Revised Code 50874
authorizing the person to practice medicine and surgery or 50875
osteopathic medicine and surgery, or a medical officer of the 50876
government of the United States while in the performance of the 50877
officer's official duties. 50878

~~(I)~~(K) "Managing officer" means a person who is appointed by 50879
the director of mental retardation and developmental disabilities 50880
to be in executive control of an institution for the mentally 50881
retarded under the jurisdiction of the department. 50882

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 50883
of the Revised Code. 50884

~~(N)~~(M) "Medicaid case management services" means case 50885
management services provided to an individual with mental 50886
retardation or other developmental disability that the state 50887
medicaid plan requires. 50888

~~(O)~~(N) "Mentally retarded person" means a person having 50889
significantly subaverage general intellectual functioning existing 50890
concurrently with deficiencies in adaptive behavior, manifested 50891
during the developmental period. 50892

~~(P)~~(O) "Mentally retarded person subject to 50893
institutionalization by court order" means a person eighteen years 50894
of age or older who is at least moderately mentally retarded and 50895
in relation to whom, because of the person's retardation, either 50896
of the following conditions exist: 50897

(1) The person represents a very substantial risk of physical 50898
impairment or injury to self as manifested by evidence that the 50899
person is unable to provide for and is not providing for the 50900

person's most basic physical needs and that provision for those 50901
needs is not available in the community; 50902

(2) The person needs and is susceptible to significant 50903
habilitation in an institution. 50904

~~(Q)~~(P) "A person who is at least moderately mentally 50905
retarded" means a person who is found, following a comprehensive 50906
evaluation, to be impaired in adaptive behavior to a moderate 50907
degree and to be functioning at the moderate level of intellectual 50908
functioning in accordance with standard measurements as recorded 50909
in the most current revision of the manual of terminology and 50910
classification in mental retardation published by the American 50911
association on mental retardation. 50912

~~(R)~~(O) As used in this division, "substantial functional 50913
limitation," "developmental delay," and "established risk" have 50914
the meanings established pursuant to section 5123.011 of the 50915
Revised Code. 50916

"Developmental disability" means a severe, chronic disability 50917
that is characterized by all of the following: 50918

(1) It is attributable to a mental or physical impairment or 50919
a combination of mental and physical impairments, other than a 50920
mental or physical impairment solely caused by mental illness as 50921
defined in division (A) of section 5122.01 of the Revised Code. 50922

(2) It is manifested before age twenty-two. 50923

(3) It is likely to continue indefinitely. 50924

(4) It results in one of the following: 50925

(a) In the case of a person under three years of age, at 50926
least one developmental delay or an established risk; 50927

(b) In the case of a person at least three years of age but 50928
under six years of age, at least two developmental delays or an 50929
established risk; 50930

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

~~(S)~~(R) "Developmentally disabled person" means a person with a developmental disability.

~~(T)~~(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

~~(U)~~(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of

job and family services, the department of mental health, or the 50962
department of mental retardation and developmental disabilities, 50963
the residence of the person shall be considered as though the 50964
person were residing in the county in which the person was living 50965
prior to the person's entrance into the institution or home. 50966
Settlement once acquired shall continue until a person has been 50967
continuously absent from Ohio for a period of one year or has 50968
acquired a legal residence in another state. A woman who marries a 50969
man with legal settlement in any county immediately acquires the 50970
settlement of her husband. The legal settlement of a minor is that 50971
of the parents, surviving parent, sole parent, parent who is 50972
designated the residential parent and legal custodian by a court, 50973
other adult having permanent custody awarded by a court, or 50974
guardian of the person of the minor, provided that: 50975

(1) A minor female who marries shall be considered to have 50976
the legal settlement of her husband and, in the case of death of 50977
her husband or divorce, she shall not thereby lose her legal 50978
settlement obtained by the marriage. 50979

(2) A minor male who marries, establishes a home, and who has 50980
resided in this state for one year without receiving general 50981
assistance prior to July 17, 1995, under former Chapter 5113. of 50982
the Revised Code, financial assistance under Chapter 5115. of the 50983
Revised Code, or assistance from a private agency that maintains 50984
records of assistance given shall be considered to have obtained a 50985
legal settlement in this state. 50986

(3) The legal settlement of a child under eighteen years of 50987
age who is in the care or custody of a public or private child 50988
caring agency shall not change if the legal settlement of the 50989
parent changes until after the child has been in the home of the 50990
parent for a period of one year. 50991

No person, adult or minor, may establish a legal settlement 50992
in this state for the purpose of gaining admission to any state 50993

institution.	50994
(V) (U)(1) "Resident" means, subject to division (R)(2) of	50995
this section, a person who is admitted either voluntarily or	50996
involuntarily to an institution or other facility pursuant to	50997
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised	50998
Code subsequent to a finding of not guilty by reason of insanity	50999
or incompetence to stand trial or under this chapter who is under	51000
observation or receiving habilitation and care in an institution.	51001
(2) "Resident" does not include a person admitted to an	51002
institution or other facility under section 2945.39, 2945.40,	51003
2945.401, or 2945.402 of the Revised Code to the extent that the	51004
reference in this chapter to resident, or the context in which the	51005
reference occurs, is in conflict with any provision of sections	51006
2945.37 to 2945.402 of the Revised Code.	51007
(W) (V) "Respondent" means the person whose detention,	51008
commitment, or continued commitment is being sought in any	51009
proceeding under this chapter.	51010
(X) (W) "Working day" and "court day" mean Monday, Tuesday,	51011
Wednesday, Thursday, and Friday, except when such day is a legal	51012
holiday.	51013
(Y) (X) "Prosecutor" means the prosecuting attorney, village	51014
solicitor, city director of law, or similar chief legal officer	51015
who prosecuted a criminal case in which a person was found not	51016
guilty by reason of insanity, who would have had the authority to	51017
prosecute a criminal case against a person if the person had not	51018
been found incompetent to stand trial, or who prosecuted a case in	51019
which a person was found guilty.	51020
(Z) (Y) "Court" means the probate division of the court of	51021
common pleas.	51022
Sec. 5123.046. The department of mental retardation and	51023

developmental disabilities shall review each component of the 51024
three-calendar year plan it receives from a county board of mental 51025
retardation and developmental disabilities under section 5126.054 51026
of the Revised Code and, in consultation with the department of 51027
job and family services and office of budget and management, 51028
approve each component that includes all the information and 51029
conditions specified in that section. The fourth component of the 51030
plan shall be approved or disapproved not later than forty-five 51031
days after the fourth component is submitted to the department 51032
under division (B)(3) of section 5126.054 of the Revised Code. If 51033
the department approves all four components of the plan, the plan 51034
is approved. Otherwise, the plan is disapproved. If the plan is 51035
disapproved, the department shall take action against the county 51036
board under division (B) of section 5126.056 of the Revised Code. 51037

In approving plans under this section, the department shall 51038
ensure that the aggregate of all plans provide for the increased 51039
enrollment into home and community-based services during each 51040
state fiscal year of at least five hundred individuals who did not 51041
receive residential services, supported living, or home and 51042
community-based services the prior state fiscal year if the 51043
department has enough additional enrollment available for this 51044
purpose. 51045

The department shall establish protocols that the department 51046
shall use to determine whether a county board is complying with 51047
the programmatic and financial accountability mechanisms and 51048
achieving outcomes specified in its approved plan. If the 51049
department determines that a county board is not in compliance 51050
with the mechanisms or achieving the outcomes specified in its 51051
approved plan, the department may take action under division 51052
(G)(F) of section 5126.055 of the Revised Code. 51053

Sec. 5123.047. (A) ~~The department of mental retardation and~~ 51054

~~developmental disabilities shall pay the nonfederal share of 51055
medicaid expenditures for habilitation center services provided to 51056
an individual with mental retardation or other developmental 51057
disability unless section 5111.041 of the Revised Code requires a 51058
county board of mental retardation and developmental disabilities 51059
or a school district to pay the nonfederal share. 51060~~

~~(B) The department of mental retardation and developmental 51061
disabilities shall pay the nonfederal share of medicaid 51062
expenditures for medicaid case management services if ~~either of 51063
the following apply:~~ 51064~~

~~(1) The the services are provided to an individual with 51065
mental retardation or other developmental disability who a county 51066
board of mental retardation and developmental disabilities has 51067
determined under section 5126.041 of the Revised Code is not 51068
eligible for county board services. 51069~~

~~(2) The services are provided to an individual with mental 51070
retardation or other developmental disability by a public or 51071
private agency with which the department has contracted under 51072
section 5123.56 of the Revised Code to provide protective services 51073
to the individual. 51074~~

~~(C)(B) The department shall pay the nonfederal share of 51075
medicaid expenditures for home and community-based services if 51076
either of the following apply: 51077~~

~~(1) The services are provided to an individual with mental 51078
retardation or other developmental disability who a county board 51079
has determined under section 5126.041 of the Revised Code is not 51080
eligible for county board services; 51081~~

~~(2) The services are provided to an individual with mental 51082
retardation or other developmental disability given priority for 51083
the services pursuant to division (D)(3) of section 5126.042 of 51084
the Revised Code. The department shall pay the nonfederal share of 51085~~

medicaid expenditures for home and community-based services 51086
provided to such an individual for as long as the individual 51087
continues to be eligible for and receive the services, regardless 51088
of whether the services are provided after June 30, 2003. 51089

Sec. 5123.049. The director of mental retardation and 51090
developmental disabilities shall adopt rules in accordance with 51091
Chapter 119. of the Revised Code governing the authorization and 51092
payment of home and community-based services, and medicaid case 51093
management services, ~~and habilitation center services~~. The rules 51094
shall provide for private providers of the services to receive one 51095
hundred per cent of the medicaid allowable payment amount and for 51096
government providers of the services to receive the federal share 51097
of the medicaid allowable payment, less the amount withheld as a 51098
fee under section 5123.0412 of the Revised Code and any amount 51099
that may be required by rules adopted under section 5123.0413 of 51100
the Revised Code to be deposited into the state MR/DD risk fund. 51101
The rules shall establish the process by which county boards of 51102
mental retardation and developmental disabilities shall certify 51103
and provide the nonfederal share of medicaid expenditures that the 51104
county board is required by division (A) of section 5126.057 of 51105
the Revised Code to pay. The process shall require a county board 51106
to certify that the county board has funding available at one time 51107
for two months costs for those expenditures. The process may 51108
permit a county board to certify that the county board has funding 51109
available at one time for more than two months costs for those 51110
expenditures. 51111

Sec. 5123.0412. (A) The department of mental retardation and 51112
developmental disabilities shall charge each county board of 51113
mental retardation and developmental disabilities an annual fee 51114
equal to one and one-half per cent of the total value of all 51115
medicaid paid claims for medicaid case management services and 51116

home and community-based services ~~for which the county board~~ 51117
~~contracts or provides itself~~ provided during the year to an 51118
individual eligible for services from the county board. No county 51119
board shall pass the cost of a fee charged to the county board 51120
under this section on to ~~a person or government entity with which~~ 51121
~~the county board contracts to provide the~~ another provider of 51122
these services. 51123

(B) The fees collected under this section shall be deposited 51124
into the ODMR/DD administration and oversight fund and the ODJFS 51125
administration and oversight fund, both of which are hereby 51126
created in the state treasury. The portion of the fees to be 51127
deposited into the ODMR/DD administration and oversight fund and 51128
the portion of the fees to be deposited into the ODJFS 51129
administration and oversight fund shall be the portion specified 51130
in an interagency agreement entered into under division (C) of 51131
this section. The department of mental retardation and 51132
developmental disabilities shall use the money in the ODMR/DD 51133
administration and oversight fund and the department of job and 51134
family services shall use the money in the ODJFS administration 51135
and oversight fund for both of the following purposes: 51136

(1) The administrative and oversight costs of ~~habilitation~~ 51137
~~center services,~~ medicaid case management services, and home and 51138
community-based services ~~that a county board develops and monitors~~ 51139
~~and the county board or a person or government entity under~~ 51140
~~contract with the county board provides.~~ The administrative and 51141
oversight costs shall include costs for staff, systems, and other 51142
resources the departments need and dedicate solely to the 51143
following duties associated with the services: 51144

- (a) Eligibility determinations; 51145
- (b) Training; 51146
- (c) Fiscal management; 51147

(d) Claims processing;	51148
(e) Quality assurance oversight;	51149
(f) Other duties the departments identify.	51150
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	51151 51152 51153
(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	51154 51155 51156
(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	51157 51158 51159 51160
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.	51161 51162 51163
(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	51164 51165 51166 51167 51168
Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194 , 5123.196 , 5123.198 , and <u>to</u> 5123.20 of the Revised Code:	51169 51170 51171
(1) (a) <u>"Independent living arrangement" means an arrangement in which an individual with mental retardation or a developmental disability resides in an individualized setting chosen by the individual or individual's guardian, which is not dedicated principally to the provision of residential services for</u>	51172 51173 51174 51175 51176

individuals with mental retardation or a developmental disability, 51177
and for which no financial support is received for rendering such 51178
service from any governmental agency by a provider of residential 51179
services. 51180

(2) "Intermediate care facility for the mentally retarded" 51181
means a residential facility certified as an intermediate care 51182
facility for the mentally retarded by the director of health in 51183
accordance with Title XIX of the "Social Security Act," 79 Stat. 51184
286 (1965), 42 U.S.C. 1396. 51185

(3) "Licensee" means the person or government agency that has 51186
applied for a license to operate a residential facility and to 51187
which the license was issued under this section. 51188

(4) "Political subdivision" means a municipal corporation, 51189
county, or township. 51190

(5) "Residential facility" means a home or facility in which 51191
a mentally retarded individual with mental retardation or 51192
developmentally disabled person a developmental disability 51193
resides, except the home of a relative or legal guardian in which 51194
a mentally retarded or developmentally disabled person such an 51195
individual resides, a respite care home certified under section 51196
5126.05 of the Revised Code, a county home or district home 51197
operated pursuant to Chapter 5155. of the Revised Code, or a 51198
dwelling in which the only mentally retarded residents with mental 51199
retardation or developmentally disabled residents a developmental 51200
disability are in an independent living arrangement or are being 51201
provided supported living. 51202

~~(b) "Intermediate care facility for the mentally retarded"~~ 51203
~~means a residential facility that is considered an intermediate~~ 51204
~~care facility for the mentally retarded for the purposes of~~ 51205
~~Chapter 5111. of the Revised Code.~~ 51206

~~(2) "Political subdivision" means a municipal corporation,~~ 51207

county, or township. 51208

~~(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.~~ 51209
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~~(4)(6) "Residential facility I" means a residential facility that is not an intermediate care facility for the mentally retarded.~~ 51217
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~~(7) "Residential facility II" means a residential facility that is an intermediate care facility for the mentally retarded.~~ 51220
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(8) "Supported living" has the same meaning as in section 5126.01 of the Revised Code. 51222
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~~(5) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.~~ 51224
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(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. The person or government agency shall state in the application whether the person or government agency seeks licensure as a residential facility I or residential facility II. Notwithstanding Chapter 3721. of the Revised Code, the operator of a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for 51227
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licensure ~~of the~~ as a residential facility II for any portion of 51239
the home that is ~~certified as~~ an intermediate care facility for 51240
the mentally retarded. 51241

(C) Subject to section 5123.196 of the Revised Code, the 51242
director of mental retardation and developmental disabilities 51243
shall license the operation of residential facilities. An initial 51244
license shall be issued for a period that does not exceed one 51245
year, unless the director denies the license under division (D) of 51246
this section. A license shall be renewed for a period that does 51247
not exceed three years, unless the director refuses to renew the 51248
license under division (D) of this section. The director, when 51249
issuing or renewing a license, shall specify the period for which 51250
the license is being issued or renewed. A license remains valid 51251
for the length of the licensing period specified by the director, 51252
unless the license is terminated, revoked, or voluntarily 51253
surrendered. 51254

(D) If it is determined that an applicant or licensee is not 51255
in compliance with a provision of this chapter that applies to the 51256
type of residential facilities facility that the applicant seeks 51257
to operate or the licensee operates, or the rules adopted under 51258
such a provision, the director may deny issuance of a license, 51259
refuse to renew a license, terminate a license, revoke a license, 51260
issue an order for the suspension of admissions to a facility, 51261
issue an order for the placement of a monitor at a facility, issue 51262
an order for the immediate removal of residents, or take any other 51263
action the director considers necessary consistent with the 51264
director's authority under this chapter regarding residential 51265
facilities. In the director's selection and administration of the 51266
sanction to be imposed, all of the following apply: 51267

(1) The director may deny, refuse to renew, or revoke a 51268
license, if the director determines that the applicant or licensee 51269
has demonstrated a pattern of serious noncompliance or that a 51270

violation creates a substantial risk to the health and safety of residents of a residential facility. 51271
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(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. 51273
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(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 violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected. 51277
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(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected. 51288
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(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to the type of residential facility that the facilities are, or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as 51293
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practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to the type of residential facility that the facilities are, or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of such proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also notify each affected resident, the resident's guardian if the resident is an adult for whom a guardian has been appointed, the resident's parent or guardian if the resident is a minor, and the county board of mental retardation and developmental disabilities.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to the type of residential facilities facility that the facility is, or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke

a license regardless of whether some or all of the deficiencies
that prompted the proceedings have been corrected at the time of
the hearing.

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(E) The director shall establish a program under which public
notification may be made when the director has initiated license
revocation proceedings or has issued an order for the suspension
of admissions, placement of a monitor, or removal of residents.
The director shall adopt rules in accordance with Chapter 119. of
the Revised Code to implement this division. The rules shall
establish the procedures by which the public notification will be
made and specify the circumstances for which the notification must
be made. The rules shall require that public notification be made
if the director has taken action against the facility in the
eighteen-month period immediately preceding the director's latest
action against the facility and the latest action is being taken
for the same or a substantially similar violation of a provision
of this chapter that applies to the type of residential facilities
facility that the facility is, or the rules adopted under such a
provision. The rules shall specify a method for removing or
amending the public notification if the director's action is found
to have been unjustified or the violation at the residential
facility has been corrected.

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(F)(1) Except as provided in division (F)(2) of this section,
appeals from proceedings initiated to impose a sanction under
division (D) of this section shall be conducted in accordance with
Chapter 119. of the Revised Code.

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(2) Appeals from proceedings initiated to order the
suspension of admissions to a facility shall be conducted in
accordance with Chapter 119. of the Revised Code, unless the order
was issued before providing an opportunity for an adjudication, in
which case all of the following apply:

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(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the close of the hearing.

(e) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(f) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(g) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, ~~including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities.~~ The rules

shall establish and specify the following:	51395
(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;	51396 51397 51398 51399
(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;	51400 51401 51402 51403
(3) Fees for issuing and renewing licenses;	51404
(4) Procedures for surveying residential facilities;	51405
(5) Requirements for the training of residential facility personnel;	51406 51407
(6) Classifications for the various types of residential facilities <u>beyond the residential facility I and II classifications</u> ;	51408 51409 51410
(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;	51411 51412 51413 51414
(8) The maximum number of persons who may be served in a particular type of residential facility;	51415 51416
(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;	51417 51418
(10) Other standards for the operation of residential facilities and the services provided at residential facilities, <u>including standards applicable to residential facilities II but not to residential facilities I</u> ;	51419 51420 51421 51422
(11) Procedures for waiving any provision of any rule adopted under this section.	51423 51424

(H) Before issuing a license, the director of the department 51425
or the director's designee shall conduct a survey of the 51426
residential facility for which application is made. The director 51427
or the director's designee shall conduct a survey of each licensed 51428
residential facility at least once during the period the license 51429
is valid and may conduct additional inspections as needed. A 51430
survey includes but is not limited to an on-site examination and 51431
evaluation of the residential facility, its personnel, and the 51432
services provided there. 51433

In conducting surveys, the director or the director's 51434
designee shall be given access to the residential facility; all 51435
records, accounts, and any other documents related to the 51436
operation of the facility; the licensee; the residents of the 51437
facility; and all persons acting on behalf of, under the control 51438
of, or in connection with the licensee. The licensee and all 51439
persons on behalf of, under the control of, or in connection with 51440
the licensee shall cooperate with the director or the director's 51441
designee in conducting the survey. 51442

Following each survey, unless the director initiates a 51443
license revocation proceeding, the director or the director's 51444
designee shall provide the licensee with a report listing any 51445
deficiencies, specifying a timetable within which the licensee 51446
shall submit a plan of correction describing how the deficiencies 51447
will be corrected, and, when appropriate, specifying a timetable 51448
within which the licensee must correct the deficiencies. After a 51449
plan of correction is submitted, the director or the director's 51450
designee shall approve or disapprove the plan. A copy of the 51451
report and any approved plan of correction shall be provided to 51452
any person who requests it. 51453

The director shall initiate disciplinary action against any 51454
department employee who notifies or causes the notification to any 51455
unauthorized person of an unannounced survey of a residential 51456

facility by an authorized representative of the department. 51457

(I) In addition to any other information which may be 51458
required of applicants for a license pursuant to this section, the 51459
director shall require each applicant to provide a copy of an 51460
approved plan for a proposed residential facility pursuant to 51461
section 5123.042 of the Revised Code. This division does not apply 51462
to renewal of a license. 51463

(J) A licensee shall notify the owner of the building in 51464
which the licensee's residential facility is located of any 51465
significant change in the identity of the licensee or management 51466
contractor before the effective date of the change if the licensee 51467
is not the owner of the building. 51468

Pursuant to rules which shall be adopted in accordance with 51469
Chapter 119. of the Revised Code, the director may require 51470
notification to the department of any significant change in the 51471
ownership of a residential facility or in the identity of the 51472
licensee or management contractor. If the director determines that 51473
a significant change of ownership is proposed, the director shall 51474
consider the proposed change to be an application for development 51475
by a new operator pursuant to section 5123.042 of the Revised Code 51476
and shall advise the applicant within sixty days of such 51477
notification that the current license shall continue in effect or 51478
a new license will be required pursuant to this section. If the 51479
director requires a new license, the director shall permit the 51480
facility to continue to operate under the current license until 51481
the new license is issued, unless the current license is revoked, 51482
refused to be renewed, or terminated in accordance with Chapter 51483
119. of the Revised Code. 51484

(K) A county board of mental retardation and developmental 51485
disabilities, the legal rights service, and any interested person 51486
may file complaints alleging violations of statute or department 51487

rule relating to residential facilities with the department. All 51488
complaints shall be in writing and shall state the facts 51489
constituting the basis of the allegation. The department shall not 51490
reveal the source of any complaint unless the complainant agrees 51491
in writing to waive the right to confidentiality or until so 51492
ordered by a court of competent jurisdiction. 51493

The department shall adopt rules in accordance with Chapter 51494
119. of the Revised Code establishing procedures for the receipt, 51495
referral, investigation, and disposition of complaints filed with 51496
the department under this division. 51497

(L) The department shall establish procedures for the 51498
notification of interested parties of the transfer or interim care 51499
of residents from residential facilities that are closing or are 51500
losing their license. 51501

(M) Before issuing a license under this section to a 51502
residential facility that will accommodate at any time more than 51503
one ~~mentally retarded individual with mental retardation~~ or 51504
~~developmentally disabled individual~~ a developmental disability, 51505
the director shall, by first class mail, notify the following: 51506

(1) If the facility will be located in a municipal 51507
corporation, the clerk of the legislative authority of the 51508
municipal corporation; 51509

(2) If the facility will be located in unincorporated 51510
territory, the clerk of the appropriate board of county 51511
commissioners and the clerk of the appropriate board of township 51512
trustees. 51513

The director shall not issue the license for ten days after 51514
mailing the notice, excluding Saturdays, Sundays, and legal 51515
holidays, in order to give the notified local officials time in 51516
which to comment on the proposed issuance. 51517

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight ~~persons~~ individuals with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen ~~persons~~ individuals with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit

development districts may exclude these residential facilities 51550
from such districts, and a political subdivision that has enacted 51551
a zoning ordinance or resolution may regulate these residential 51552
facilities in multiple-family residential districts or zones as a 51553
conditionally permitted use or special exception, in either case, 51554
under reasonable and specific standards and conditions set out in 51555
the zoning ordinance or resolution to: 51556

(1) Require the architectural design and site layout of the 51557
residential facility and the location, nature, and height of any 51558
walls, screens, and fences to be compatible with adjoining land 51559
uses and the residential character of the neighborhood; 51560

(2) Require compliance with yard, parking, and sign 51561
regulation; 51562

(3) Limit excessive concentration of these residential 51563
facilities. 51564

(P) This section does not prohibit a political subdivision 51565
from applying to residential facilities nondiscriminatory 51566
regulations requiring compliance with health, fire, and safety 51567
regulations and building standards and regulations. 51568

(Q) Divisions (N) and (O) of this section are not applicable 51569
to municipal corporations that had in effect on June 15, 1977, an 51570
ordinance specifically permitting in residential zones licensed 51571
residential facilities by means of permitted uses, conditional 51572
uses, or special exception, so long as such ordinance remains in 51573
effect without any substantive modification. 51574

(R)(1) The director may issue an interim license to operate a 51575
residential facility to an applicant for a license under this 51576
section if either of the following is the case: 51577

(a) The director determines that an emergency exists 51578
requiring immediate placement of persons in a residential 51579
facility, that insufficient licensed beds are available, and that 51580

the residential facility is likely to receive a permanent license 51581
under this section within thirty days after issuance of the 51582
interim license. 51583

(b) The director determines that the issuance of an interim 51584
license is necessary to meet a temporary need for a residential 51585
facility. 51586

(2) To be eligible to receive an interim license, an 51587
applicant must meet the same criteria that must be met to receive 51588
a permanent license under this section, except for any differing 51589
procedures and time frames that may apply to issuance of a 51590
permanent license. 51591

(3) An interim license shall be valid for thirty days and may 51592
be renewed by the director for a period not to exceed one hundred 51593
fifty days. 51594

(4) The director shall adopt rules in accordance with Chapter 51595
119. of the Revised Code as the director considers necessary to 51596
administer the issuance of interim licenses. 51597

(S) Notwithstanding rules adopted pursuant to this section 51598
establishing the maximum number of ~~persons~~ individuals who may be 51599
served in a particular type of residential facility, a residential 51600
facility shall be permitted to serve the same number of ~~persons~~ 51601
individuals being served by the facility on the effective date of 51602
such rules or the number of ~~persons~~ individuals for which the 51603
facility is authorized pursuant to a current application for a 51604
certificate of need with a letter of support from the department 51605
of mental retardation and developmental disabilities and which is 51606
in the review process prior to April 4, 1986. 51607

(T) The director or the director's designee may enter at any 51608
time, for purposes of investigation, any home, facility, or other 51609
structure that has been reported to the director or that the 51610
director has reasonable cause to believe is being operated as a 51611

residential facility without a license issued under this section. 51612

The director may petition the court of common pleas of the 51613
county in which an unlicensed residential facility is located for 51614
an order enjoining the person or governmental agency operating the 51615
facility from continuing to operate without a license. The court 51616
may grant the injunction on a showing that the person or 51617
governmental agency named in the petition is operating a 51618
residential facility without a license. The court may grant the 51619
injunction, regardless of whether the residential facility meets 51620
the requirements for receiving a license under this section. 51621

Sec. 5123.196. (A) Except as provided in ~~divisions (F)~~ 51622
division (E) of this section, the director of mental retardation 51623
and developmental disabilities shall not issue a license under 51624
section 5123.19 of the Revised Code on or after July 1, ~~2003~~ 2005, 51625
if issuance will result in there being more beds in all 51626
residential facilities II licensed under that section than is 51627
permitted under division (B) of this section. 51628

(B) The maximum number of beds for the purpose of division 51629
(A) of this section shall not exceed ~~ten thousand eight hundred~~ 51630
~~thirty-eight~~ seven thousand six hundred fifty-six minus, except as 51631
provided in division (C) of this section, both of the following: 51632

(1) The number of such beds that cease to be residential 51633
facility II beds on or after July 1, ~~2003~~ 2005, because a 51634
residential facility II license is revoked, terminated, or not 51635
renewed for any reason or is surrendered in accordance with 51636
section 5123.19 of the Revised Code and after the issuance of an 51637
adjudication order pursuant to Chapter 119. of the Revised Code; 51638

(2) The number of such beds for which a licensee voluntarily 51639
converts to use for supported living on or after July 1, ~~2003~~ 51640
2005. 51641

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility II bed 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 II beds provided for by division (B) of this section.

~~(F)~~(E) The director may issue an interim license under division (R) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted under division (G)(11) of that section, a waiver allowing a residential facility II to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities II licensed under that section than is permitted under division (B) of this section.

Sec. 5123.1910. A residential facility II shall employ a qualified mental retardation professional who meets the requirements of 42 C.F.R. 483.430 and a medical director. A residential facility II shall employ or contract for the services of a registered nurse licensed under Chapter 4723. of the Revised Code and, if the facility provides special diets to any of its residents, a dietitian licensed under Chapter 4759. of the Revised Code.

~~Sec. 5123.20. As used in this section, "supported living" has the same meaning as in section 5126.01 of the Revised Code.~~

No person or government agency shall operate a residential facility or receive a ~~mentally retarded~~ an individual with mental

~~retardation or developmentally disabled person a developmental~~ 51672
~~disability~~ as a resident of a residential facility unless the 51673
facility is licensed under section 5123.19 of the Revised Code, 51674
~~and no as the type of residential facility that the facility is.~~ 51675
No person or governmental agency shall operate a respite care home 51676
or receive a mentally retarded or developmentally disabled person 51677
in a respite care home unless the home is certified under section 51678
5126.05 of the Revised Code. 51679

No person or government agency shall provide supported living 51680
unless that person or government agency is certified under section 51681
5126.431 of the Revised Code. 51682

Sec. 5123.34. This chapter attempts to do all of the 51683
following: 51684

(A) Provide humane and scientific treatment and care and the 51685
highest attainable degree of individual development for persons 51686
with mental retardation or a developmental disability; 51687

(B) Promote the study of the causes of mental retardation and 51688
developmental disabilities, with a view to ultimate prevention; 51689

(C) Secure by uniform and systematic management the highest 51690
attainable degree of economy in the administration of the 51691
institutions under the control of the department of mental 51692
retardation and developmental disabilities. 51693

Sections 5123.02 to 5123.04, ~~5123.041 to~~ 5123.042, 5123.043, 51694
5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised 51695
Code shall be liberally construed to attain these purposes. 51696

Sec. 5123.701. (A) Except as provided in division (E) of this 51697
section, any person in the community who is eighteen years of age 51698
or older and who is or believes self to be mentally retarded may 51699
make written application to the managing officer of any 51700
institution for temporary admission for short-term care. The 51701

application may be made on behalf of a minor by a parent or 51702
guardian, and on behalf of an adult adjudicated mentally 51703
incompetent by a guardian. 51704

(B) For purposes of this section, short-term care shall be 51705
defined to mean appropriate services provided to a person with 51706
mental retardation for no more than fourteen consecutive days and 51707
for no more than forty-two days in a fiscal year. When 51708
circumstances warrant, the fourteen-day period may be extended at 51709
the discretion of the managing officer. Short-term care is 51710
provided in a developmental center to meet the family's or 51711
caretaker's needs for separation from the person with mental 51712
retardation. 51713

(C) The managing officer of an institution, with the 51714
concurrence of the chief program director, may admit a person for 51715
short-term care only after a medical examination has been made of 51716
the person and only if the managing officer concludes that the 51717
person is mentally retarded. 51718

(D) If application for admission for short-term care of a 51719
minor or of a person adjudicated mentally incompetent is made by 51720
the minor's parent or guardian or by the incompetent's guardian 51721
and the minor or incompetent is admitted, the probate division of 51722
the court of common pleas shall determine, upon petition by the 51723
legal rights service, whether the admission for short-term care is 51724
in the best interest of the minor or the incompetent. 51725

(E) A person who is found not guilty by reason of insanity 51726
shall not admit self to an institution for short-term care unless 51727
a hearing was held regarding the person pursuant to division (A) 51728
of section 2945.40 of the Revised Code and either of the following 51729
applies: 51730

(1) The person was found at the hearing not to be a mentally 51731
retarded person subject to institutionalization by court order; 51732

(2) The person was found at the hearing to be a mentally retarded person subject to institutionalization by court order, was involuntarily committed, and was finally discharged.

(F) The mentally retarded person, liable relatives, and guardians of mentally retarded persons admitted for respite care shall pay support charges in accordance with sections ~~5121.03~~ 5121.01 to 5121.07 of the Revised Code.

(G) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

Sec. 5123.71. (A)(1) Proceedings for the involuntary institutionalization of a person pursuant to sections 5123.71 to 5123.76 of the Revised Code shall be commenced by the filing of an affidavit with the probate division of the court of common pleas of the county where the person resides or where the person is institutionalized, in the manner and form prescribed by the department of mental retardation and developmental disabilities either on information or actual knowledge, whichever is determined to be proper by the court. The affidavit may be filed only by a person who has custody of the individual as a parent, guardian, or service provider or by a person acting on behalf of the department or a county board of mental retardation and developmental disabilities. This section does not apply regarding the institutionalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

The affidavit shall contain an allegation setting forth the

specific category or categories under division ~~(P)~~(O) of section 51764
5123.01 of the Revised Code upon which the commencement of 51765
proceedings is based and a statement of the factual ground for the 51766
belief that the person is a mentally retarded person subject to 51767
institutionalization by court order. Except as provided in 51768
division (A)(2) of this section, the affidavit shall be 51769
accompanied by both of the following: 51770

(a) A comprehensive evaluation report prepared by the 51771
person's evaluation team that includes a statement by the members 51772
of the team certifying that they have performed a comprehensive 51773
evaluation of the person and that they are of the opinion that the 51774
person is a mentally retarded person subject to 51775
institutionalization by court order; 51776

(b) An assessment report prepared by the county board of 51777
mental retardation and developmental disabilities under section 51778
5123.711 of the Revised Code specifying that the individual is in 51779
need of services on an emergency or priority basis. 51780

(2) In lieu of the comprehensive evaluation report, the 51781
affidavit may be accompanied by a written and sworn statement that 51782
the person or the guardian of a person adjudicated incompetent has 51783
refused to allow a comprehensive evaluation and county board 51784
assessment and assessment reports. Immediately after accepting an 51785
affidavit that is not accompanied by the reports of a 51786
comprehensive evaluation and county board assessment, the court 51787
shall cause a comprehensive evaluation and county board assessment 51788
of the person named in the affidavit to be performed. The 51789
evaluation shall be conducted in the least restrictive environment 51790
possible and the assessment shall be conducted in the same manner 51791
as assessments conducted under section 5123.711 of the Revised 51792
Code. The evaluation and assessment must be completed before a 51793
probable cause hearing or full hearing may be held under section 51794
5123.75 or 5123.76 of the Revised Code. 51795

A written report of the evaluation team's findings and the county board's assessment shall be filed with the court. The reports shall, consistent with the rules of evidence, be accepted as probative evidence in any proceeding under section 5123.75 or 5123.76 of the Revised Code. If the counsel for the person who is evaluated or assessed is known, the court shall send to the counsel a copy of the reports as soon as possible after they are filed and prior to any proceedings under section 5123.75 or 5123.76 of the Revised Code.

(B) Any person who is involuntarily detained in an institution or otherwise is in custody under this chapter shall be informed of the right to do the following:

(1) Immediately make a reasonable number of telephone calls or use other reasonable means to contact an attorney, a physician, or both, to contact any other person or persons to secure representation by counsel, or to obtain medical assistance, and be provided assistance in making calls if the assistance is needed and requested;

(2) Retain counsel and have independent expert evaluation and, if the person is an indigent person, be represented by court-appointed counsel and have independent expert evaluation at court expense;

(3) Upon request, have a hearing to determine whether there is probable cause to believe that the person is a mentally retarded person subject to institutionalization by court order.

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily committed unless the court has determined that the person represents a very substantial risk of self-impairment, self-injury, or impairment or injury to others.

Sec. 5123.76. (A) The full hearing shall be conducted in a 51827
manner consistent with the procedures outlined in this chapter and 51828
with due process of law. The hearing shall be held by a judge of 51829
the probate division or, upon transfer by the judge of the probate 51830
division, by another judge of the court of common pleas, or a 51831
referee designated by the judge of the probate division. Any 51832
referee designated by the judge of the probate division must be an 51833
attorney. 51834

(1) The following shall be made available to counsel for the 51835
respondent: 51836

(a) All relevant documents, information, and evidence in the 51837
custody or control of the state or prosecutor; 51838

(b) All relevant documents, information, and evidence in the 51839
custody or control of the institution, facility, or program in 51840
which the respondent currently is held or in which the respondent 51841
has been held pursuant to these proceedings; 51842

(c) With the consent of the respondent, all relevant 51843
documents, information, and evidence in the custody or control of 51844
any institution or person other than the state. 51845

(2) The respondent has the right to be represented by counsel 51846
of the respondent's choice and has the right to attend the hearing 51847
except if unusual circumstances of compelling medical necessity 51848
exist that render the respondent unable to attend and the 51849
respondent has not expressed a desire to attend. 51850

(3) If the respondent is not represented by counsel and the 51851
court determines that the conditions specified in division (A)(2) 51852
of this section justify the respondent's absence and the right to 51853
counsel has not been validly waived, the court shall appoint 51854
counsel forthwith to represent the respondent at the hearing, 51855
reserving the right to tax costs of appointed counsel to the 51856

respondent unless it is shown that the respondent is indigent. If 51857
the court appoints counsel, or if the court determines that the 51858
evidence relevant to the respondent's absence does not justify the 51859
absence, the court shall continue the case. 51860

(4) The respondent shall be informed of the right to retain 51861
counsel, to have independent expert evaluation, and, if an 51862
indigent person, to be represented by court appointed counsel and 51863
have expert independent evaluation at court expense. 51864

(5) The hearing may be closed to the public unless counsel 51865
for the respondent requests that the hearing be open to the 51866
public. 51867

(6) Unless objected to by the respondent, the respondent's 51868
counsel, or the designee of the director of mental retardation and 51869
developmental disabilities, the court, for good cause shown, may 51870
admit persons having a legitimate interest in the proceedings. 51871

(7) The affiant under section 5123.71 of the Revised Code 51872
shall be subject to subpoena by either party. 51873

(8) The court shall examine the sufficiency of all documents 51874
filed and shall inform the respondent, if present, and the 51875
respondent's counsel of the nature of the content of the documents 51876
and the reason for which the respondent is being held or for which 51877
the respondent's placement is being sought. 51878

(9) The court shall receive only relevant, competent, and 51879
material evidence. 51880

(10) The designee of the director shall present the evidence 51881
for the state. In proceedings under this chapter, the attorney 51882
general shall present the comprehensive evaluation, assessment, 51883
diagnosis, prognosis, record of habilitation and care, if any, and 51884
less restrictive habilitation plans, if any. The attorney general 51885
does not have a similar presentation responsibility in connection 51886

with a person who has been found not guilty by reason of insanity 51887
and who is the subject of a hearing under section 2945.40 of the 51888
Revised Code to determine whether the person is a mentally 51889
retarded person subject to institutionalization by court order. 51890

(11) The respondent has the right to testify and the 51891
respondent or the respondent's counsel has the right to subpoena 51892
witnesses and documents and to present and cross-examine 51893
witnesses. 51894

(12) The respondent shall not be compelled to testify and 51895
shall be so advised by the court. 51896

(13) On motion of the respondent or the respondent's counsel 51897
for good cause shown, or upon the court's own motion, the court 51898
may order a continuance of the hearing. 51899

(14) To an extent not inconsistent with this chapter, the 51900
Rules of Civil Procedure shall be applicable. 51901

(B) Unless, upon completion of the hearing, the court finds 51902
by clear and convincing evidence that the respondent named in the 51903
affidavit is a mentally retarded person subject to 51904
institutionalization by court order, it shall order the 51905
respondent's discharge forthwith. 51906

(C) If, upon completion of the hearing, the court finds by 51907
clear and convincing evidence that the respondent is a mentally 51908
retarded person subject to institutionalization by court order, 51909
the court may order the respondent's discharge or order the 51910
respondent, for a period not to exceed ninety days, to any of the 51911
following: 51912

(1) A public institution, provided that commitment of the 51913
respondent to the institution will not cause the institution to 51914
exceed its licensed capacity determined in accordance with section 51915
5123.19 of the Revised Code and provided that such a placement is 51916

indicated by the comprehensive evaluation report filed pursuant to 51917
section 5123.71 of the Revised Code; 51918

(2) A private institution; 51919

(3) A county mental retardation program; 51920

(4) Receive private habilitation and care; 51921

(5) Any other suitable facility, program, or the care of any 51922
person consistent with the comprehensive evaluation, assessment, 51923
diagnosis, prognosis, and habilitation needs of the respondent. 51924

(D) Any order made pursuant to division (C)(2), (4), or (5) 51925
of this section shall be conditional upon the receipt by the court 51926
of consent by the facility, program, or person to accept the 51927
respondent. 51928

(E) In determining the place to which, or the person with 51929
whom, the respondent is to be committed, the court shall consider 51930
the comprehensive evaluation, assessment, diagnosis, and projected 51931
habilitation plan for the respondent, and shall order the 51932
implementation of the least restrictive alternative available and 51933
consistent with habilitation goals. 51934

(F) If, at any time it is determined by the director of the 51935
facility or program to which, or the person to whom, the 51936
respondent is committed that the respondent could be equally well 51937
habilitated in a less restrictive environment that is available, 51938
the following shall occur: 51939

(1) The respondent shall be released by the director of the 51940
facility or program or by the person forthwith and referred to the 51941
court together with a report of the findings and recommendations 51942
of the facility, program, or person. 51943

(2) The director of the facility or program or the person 51944
shall notify the respondent's counsel and the designee of the 51945
director of mental retardation and developmental disabilities. 51946

(3) The court shall dismiss the case or order placement in 51947
the less restrictive environment. 51948

(G)(1) Except as provided in divisions (G)(2) and (3) of this 51949
section, any person who has been committed under this section may 51950
apply at any time during the ninety-day period for voluntary 51951
admission to an institution under section 5123.69 of the Revised 51952
Code. Upon admission of a voluntary resident, the managing officer 51953
immediately shall notify the court, the respondent's counsel, and 51954
the designee of the director in writing of that fact by mail or 51955
otherwise, and, upon receipt of the notice, the court shall 51956
dismiss the case. 51957

(2) A person who is found incompetent to stand trial or not 51958
guilty by reason of insanity and who is committed pursuant to 51959
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 51960
Code shall not be voluntarily admitted to an institution pursuant 51961
to division (G)(1) of this section until after the termination of 51962
the commitment, as described in division (J) of section 2945.401 51963
of the Revised Code. 51964

(H) If, at the end of any commitment period, the respondent 51965
has not already been discharged or has not requested voluntary 51966
admission status, the director of the facility or program, or the 51967
person to whose care the respondent has been committed, shall 51968
discharge the respondent forthwith, unless at least ten days 51969
before the expiration of that period the designee of the director 51970
of mental retardation and developmental disabilities or the 51971
prosecutor files an application with the court requesting 51972
continued commitment. 51973

(1) An application for continued commitment shall include a 51974
written report containing a current comprehensive evaluation and 51975
assessment, a diagnosis, a prognosis, an account of progress and 51976
past habilitation, and a description of alternative habilitation 51977

settings and plans, including a habilitation setting that is the
least restrictive setting consistent with the need for
habilitation. A copy of the application shall be provided to
respondent's counsel. The requirements for notice under section
5123.73 of the Revised Code and the provisions of divisions (A) to
(E) of this section apply to all hearings on such applications.

(2) A hearing on the first application for continued
commitment shall be held at the expiration of the first ninety-day
period. The hearing shall be mandatory and may not be waived.

(3) Subsequent periods of commitment not to exceed one
hundred eighty days each may be ordered by the court if the
designee of the director of mental retardation and developmental
disabilities files an application for continued commitment, after
a hearing is held on the application or without a hearing if no
hearing is requested and no hearing required under division (H)(4)
of this section is waived. Upon the application of a person
involuntarily committed under this section, supported by an
affidavit of a licensed physician alleging that the person is no
longer a mentally retarded person subject to institutionalization
by court order, the court for good cause shown may hold a full
hearing on the person's continued commitment prior to the
expiration of any subsequent period of commitment set by the
court.

(4) A mandatory hearing shall be held at least every two
years after the initial commitment.

(5) If the court, after a hearing upon a request to continue
commitment, finds that the respondent is a mentally retarded
person subject to institutionalization by court order, the court
may make an order pursuant to divisions (C), (D), and (E) of this
section.

(I) Notwithstanding the provisions of division (H) of this

section, no person who is found to be a mentally retarded person 52009
subject to institutionalization by court order pursuant to 52010
division ~~(P)~~(Q)(2) of section 5123.01 of the Revised Code shall be 52011
held under involuntary commitment for more than five years. 52012

(J) The managing officer admitting a person pursuant to a 52013
judicial proceeding, within ten working days of the admission, 52014
shall make a report of the admission to the department. 52015

Sec. 5126.01. As used in this chapter: 52016

(A) As used in this division, "adult" means an individual who 52017
is eighteen years of age or over and not enrolled in a program or 52018
service under Chapter 3323. of the Revised Code and an individual 52019
sixteen or seventeen years of age who is eligible for adult 52020
services under rules adopted by the director of mental retardation 52021
and developmental disabilities pursuant to Chapter 119. of the 52022
Revised Code. 52023

(1) "Adult services" means services provided to an adult 52024
outside the home, except when they are provided within the home 52025
according to an individual's assessed needs and identified in an 52026
individual service plan, that support learning and assistance in 52027
the area of self-care, sensory and motor development, 52028
socialization, daily living skills, communication, community 52029
living, social skills, or vocational skills. 52030

(2) "Adult services" includes all of the following: 52031

(a) Adult day habilitation services; 52032

(b) Adult day care; 52033

(c) Prevocational services; 52034

(d) Sheltered employment; 52035

(e) Educational experiences and training obtained through 52036
entities and activities that are not expressly intended for 52037

individuals with mental retardation and developmental 52038
disabilities, including trade schools, vocational or technical 52039
schools, adult education, job exploration and sampling, unpaid 52040
work experience in the community, volunteer activities, and 52041
spectator sports; 52042

(f) Community employment services and supported employment 52043
services. 52044

(B)(1) "Adult day habilitation services" means adult services 52045
that do the following: 52046

(a) Provide access to and participation in typical activities 52047
and functions of community life that are desired and chosen by the 52048
general population, including such activities and functions as 52049
opportunities to experience and participate in community 52050
exploration, companionship with friends and peers, leisure 52051
activities, hobbies, maintaining family contacts, community 52052
events, and activities where individuals without disabilities are 52053
involved; 52054

(b) Provide supports or a combination of training and 52055
supports that afford an individual a wide variety of opportunities 52056
to facilitate and build relationships and social supports in the 52057
community. 52058

(2) "Adult day habilitation services" includes all of the 52059
following: 52060

(a) Personal care services needed to ensure an individual's 52061
ability to experience and participate in vocational services, 52062
educational services, community activities, and any other adult 52063
day habilitation services; 52064

(b) Skilled services provided while receiving adult day 52065
habilitation services, including such skilled services as behavior 52066
management intervention, occupational therapy, speech and language 52067

therapy, physical therapy, and nursing services; 52068

(c) Training and education in self-determination designed to 52069
help the individual do one or more of the following: develop 52070
self-advocacy skills, exercise the individual's civil rights, 52071
acquire skills that enable the individual to exercise control and 52072
responsibility over the services received, and acquire skills that 52073
enable the individual to become more independent, integrated, or 52074
productive in the community; 52075

(d) Recreational and leisure activities identified in the 52076
individual's service plan as therapeutic in nature or assistive in 52077
developing or maintaining social supports; 52078

(e) Counseling and assistance provided to obtain housing, 52079
including such counseling as identifying options for either rental 52080
or purchase, identifying financial resources, assessing needs for 52081
environmental modifications, locating housing, and planning for 52082
ongoing management and maintenance of the housing selected; 52083

(f) Transportation necessary to access adult day habilitation 52084
services; 52085

(g) Habilitation management, as described in section 5126.14 52086
of the Revised Code. 52087

(3) "Adult day habilitation services" does not include 52088
activities that are components of the provision of residential 52089
services, family support services, or supported living services. 52090

(C) "Community employment services" or "supported employment 52091
services" means job training and other services related to 52092
employment outside a sheltered workshop. "Community employment 52093
services" or "supported employment services" include all of the 52094
following: 52095

(1) Job training resulting in the attainment of competitive 52096
work, supported work in a typical work environment, or 52097

self-employment;	52098
(2) Supervised work experience through an employer paid to provide the supervised work experience;	52099 52100
(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;	52101 52102
(4) Ongoing supervision by an employer paid to provide the supervision.	52103 52104
(D) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.	52105 52106 52107 52108
"Developmental disability" means a severe, chronic disability that is characterized by all of the following:	52109 52110
(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;	52111 52112 52113 52114
(2) It is manifested before age twenty-two;	52115
(3) It is likely to continue indefinitely;	52116
(4) It results in one of the following:	52117
(a) In the case of a person under age three, at least one developmental delay or an established risk;	52118 52119
(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;	52120 52121
(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age:	52122 52123
self-care, receptive and expressive language, learning, mobility,	52124 52125
self-direction, capacity for independent living, and, if the	52126

person is at least age sixteen, capacity for economic 52127
self-sufficiency. 52128

(5) It causes the person to need a combination and sequence 52129
of special, interdisciplinary, or other type of care, treatment, 52130
or provision of services for an extended period of time that is 52131
individually planned and coordinated for the person. 52132

(E) "Early childhood services" means a planned program of 52133
habilitation designed to meet the needs of individuals with mental 52134
retardation or other developmental disabilities who have not 52135
attained compulsory school age. 52136

(F)(1) "Environmental modifications" means the physical 52137
adaptations to an individual's home, specified in the individual's 52138
service plan, that are necessary to ensure the individual's 52139
health, safety, and welfare or that enable the individual to 52140
function with greater independence in the home, and without which 52141
the individual would require institutionalization. 52142

(2) "Environmental modifications" includes such adaptations 52143
as installation of ramps and grab-bars, widening of doorways, 52144
modification of bathroom facilities, and installation of 52145
specialized electric and plumbing systems necessary to accommodate 52146
the individual's medical equipment and supplies. 52147

(3) "Environmental modifications" does not include physical 52148
adaptations or improvements to the home that are of general 52149
utility or not of direct medical or remedial benefit to the 52150
individual, including such adaptations or improvements as 52151
carpeting, roof repair, and central air conditioning. 52152

(G) "Family support services" means the services provided 52153
under a family support services program operated under section 52154
5126.11 of the Revised Code. 52155

(H) "Habilitation" means the process by which the staff of 52156

the facility or agency assists an individual with mental 52157
retardation or other developmental disability in acquiring and 52158
maintaining those life skills that enable the individual to cope 52159
more effectively with the demands of the individual's own person 52160
and environment, and in raising the level of the individual's 52161
personal, physical, mental, social, and vocational efficiency. 52162
Habilitation includes, but is not limited to, programs of formal, 52163
structured education and training. 52164

~~(I) "Habilitation center services" means services provided by 52165
a habilitation center certified by the department of mental 52166
retardation and developmental disabilities under section 5123.041 52167
of the Revised Code and covered by the medicaid program pursuant 52168
to rules adopted under section 5111.041 of the Revised Code. 52169~~

~~(J)~~ "Home and community-based services" means medicaid-funded 52170
home and community-based services specified in division (B)(1) of 52171
section 5111.87 of the Revised Code and provided under the 52172
medicaid waiver components the department of mental retardation 52173
and developmental disabilities administers pursuant to section 52174
5111.871 of the Revised Code. 52175

~~(K)~~(J) "Medicaid" has the same meaning as in section 5111.01 52176
of the Revised Code. 52177

~~(L)~~(K) "Medicaid case management services" means case 52178
management services provided to an individual with mental 52179
retardation or other developmental disability that the state 52180
medicaid plan requires. 52181

~~(M)~~(L) "Mental retardation" means a mental impairment 52182
manifested during the developmental period characterized by 52183
significantly subaverage general intellectual functioning existing 52184
concurrently with deficiencies in the effectiveness or degree with 52185
which an individual meets the standards of personal independence 52186
and social responsibility expected of the individual's age and 52187

cultural group. 52188

~~(N)~~(M) "Residential services" means services to individuals 52189
with mental retardation or other developmental disabilities to 52190
provide housing, food, clothing, habilitation, staff support, and 52191
related support services necessary for the health, safety, and 52192
welfare of the individuals and the advancement of their quality of 52193
life. "Residential services" includes program management, as 52194
described in section 5126.14 of the Revised Code. 52195

~~(O)~~(N) "Resources" means available capital and other assets, 52196
including moneys received from the federal, state, and local 52197
governments, private grants, and donations; appropriately 52198
qualified personnel; and appropriate capital facilities and 52199
equipment. 52200

~~(P)~~(O) "Service and support administration" means the duties 52201
performed by a service and support administrator pursuant to 52202
section 5126.15 of the Revised Code. 52203

~~(Q)~~(P)(1) "Specialized medical, adaptive, and assistive 52204
equipment, supplies, and supports" means equipment, supplies, and 52205
supports that enable an individual to increase the ability to 52206
perform activities of daily living or to perceive, control, or 52207
communicate within the environment. 52208

(2) "Specialized medical, adaptive, and assistive equipment, 52209
supplies, and supports" includes the following: 52210

(a) Eating utensils, adaptive feeding dishes, plate guards, 52211
mylatex straps, hand splints, reaches, feeder seats, adjustable 52212
pointer sticks, interpreter services, telecommunication devices 52213
for the deaf, computerized communications boards, other 52214
communication devices, support animals, veterinary care for 52215
support animals, adaptive beds, supine boards, prone boards, 52216
wedges, sand bags, sidelayers, bolsters, adaptive electrical 52217
switches, hand-held shower heads, air conditioners, humidifiers, 52218

emergency response systems, folding shopping carts, vehicle lifts, 52219
vehicle hand controls, other adaptations of vehicles for 52220
accessibility, and repair of the equipment received. 52221

(b) Nondisposable items not covered by medicaid that are 52222
intended to assist an individual in activities of daily living or 52223
instrumental activities of daily living. 52224

~~(R)~~(Q) "Supportive home services" means a range of services 52225
to families of individuals with mental retardation or other 52226
developmental disabilities to develop and maintain increased 52227
acceptance and understanding of such persons, increased ability of 52228
family members to teach the person, better coordination between 52229
school and home, skills in performing specific therapeutic and 52230
management techniques, and ability to cope with specific 52231
situations. 52232

~~(S)~~(R)(1) "Supported living" means services provided for as 52233
long as twenty-four hours a day to an individual with mental 52234
retardation or other developmental disability through any public 52235
or private resources, including moneys from the individual, that 52236
enhance the individual's reputation in community life and advance 52237
the individual's quality of life by doing the following: 52238

(a) Providing the support necessary to enable an individual 52239
to live in a residence of the individual's choice, with any number 52240
of individuals who are not disabled, or with not more than three 52241
individuals with mental retardation and developmental disabilities 52242
unless the individuals are related by blood or marriage; 52243

(b) Encouraging the individual's participation in the 52244
community; 52245

(c) Promoting the individual's rights and autonomy; 52246

(d) Assisting the individual in acquiring, retaining, and 52247
improving the skills and competence necessary to live successfully 52248

in the individual's residence.	52249
(2) "Supported living" includes the provision of all of the following:	52250
	52251
(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;	52252
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(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;	52256
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(c) Personal care services and homemaker services;	52261
(d) Household maintenance that does not include modifications to the physical structure of the residence;	52262
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(e) Respite care services;	52264
(f) Program management, as described in section 5126.14 of the Revised Code.	52265
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Sec. 5126.035. (A) As used in this section:	52267
(1) "Provider" means a person or government entity that provides services to an individual with mental retardation or other developmental disability pursuant to a service contract.	52268
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(2) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a provider under which the provider is to provide services to an individual with mental retardation or other developmental disability.	52271
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(B) Each service contract that a county board of mental retardation and developmental disabilities enters into with a	52276
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provider shall do all <u>both</u> of the following:	52278
(1) Comply with rules adopted under division (E) of this section;	52279
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(2) If the provider is to provide home and community-based services, <u>or</u> medicaid case management services, or habilitation center services, comply with all applicable statewide medicaid requirements;	52281
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(3) <u>(2)</u> Include a general operating agreement component and an individual service needs addendum.	52285
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(C) The general operating agreement component shall include all of the following:	52287
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(1) The roles and responsibilities of the county board regarding services for individuals with mental retardation or other developmental disability who reside in the county the county board serves;	52289
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(2) The roles and responsibilities of the provider as specified in the individual service needs addendum;	52293
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(3) Procedures for the county board to monitor the provider's services;	52295
	52296
(4) Procedures for the county board to evaluate the quality of care and cost effectiveness of the provider's services;	52297
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(5) Procedures for payment of eligible claims;	52299
(6) If the provider is to provide home and community-based services, <u>or</u> medicaid case management services, or habilitation center services, both of the following:	52300
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	52302
(a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code;	52303
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(b) Procedures that ensure that the county board pays the	52306

nonfederal share of the medicaid expenditures that the county
board is required by division (A) of section 5126.057 of the
Revised Code to pay. 52307
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(7) Procedures for the county board to perform service
utilization reviews and the implementation of required corrective
actions; 52310
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(8) Procedures for the provider to submit claims for payment
for a service no later than three hundred thirty days after the
date the service is provided; 52313
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(9) Procedures for rejecting claims for payment that are
submitted after the time required by division ~~(B)(9)~~(C)(8) of this
section; 52316
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(10) Procedures for developing, modifying, and executing
initial and subsequent service plans. The procedures shall provide
for the provider's participation. 52319
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(11) Procedures for affording individuals due process
protections; 52322
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(12) General staffing, training, and certification
requirements that are consistent with state requirements and
compensation arrangements that are necessary to attract, train,
and retain competent personnel to deliver the services pursuant to
the individual service needs addendum; 52324
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(13) Methods to be used to document services provided and
procedures for submitting reports the county board requires; 52329
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(14) Methods for authorizing and documenting within
seventy-two hours changes to the individual service needs
addendum. The methods shall allow for changes to be initially
authorized verbally and subsequently in writing. 52331
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(15) Procedures for modifying the individual service needs
addendum in accordance with changes to the recipient's 52335
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individualized service plan;	52337
(16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient;	52338
(17) A requirement that all parties to the contract accept the contract's terms and conditions;	52340
(18) A designated contact person and the method of contacting the designated person to respond to medical or behavioral problems and allegations of major unusual incidents or unusual incidents;	52342
(19) Procedures for ensuring the health and welfare of the recipient;	52345
(20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data;	52347
(21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code;	52349
(22) Procedures for amending or terminating the contract, including as necessary to make the general operating agreement component consistent with any changes made to the individual service needs addendum;	52351
(23) Anything else allowable under federal and state law that the county board and provider agree to.	52355
(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:	52357
(1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services;	52359
(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment	52360
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tools;	52366
(3) A copy of the recipient's assessment and individualized service plan;	52367 52368
(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare.	52369 52370 52371 52372 52373
(E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts. A service contract does not negate the requirement that a provider of home and community-based services, <u>or</u> medicaid case management services, or habilitation center services have a medicaid provider agreement with the department of job and family services.	52374 52375 52376 52377 52378 52379 52380
Sec. 5126.042. (A) As used in this section, "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:	52381 52382 52383 52384 52385 52386
(1) Loss of present residence for any reason, including legal action;	52387 52388
(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;	52389 52390 52391 52392
(3) Abuse, neglect, or exploitation of the individual;	52393
(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;	52394 52395

(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

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(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section.

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The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

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Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status.

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In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their intention to request in the future a service they are not currently receiving. The purpose of the registry is to enable the

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board to document requests and to plan appropriately. The board	52427
may not place an individual on the registry who meets the	52428
conditions for receipt of services on an emergency basis.	52429
(C) A county board shall establish a separate waiting list	52430
for each of the following categories of services, and may	52431
establish separate waiting lists within the waiting lists:	52432
(1) Early childhood services;	52433
(2) Educational programs for preschool and school age	52434
children;	52435
(3) Adult services;	52436
(4) Service and support administration;	52437
(5) Residential services and supported living;	52438
(6) Transportation services;	52439
(7) Other services determined necessary and appropriate for	52440
persons with mental retardation or a developmental disability	52441
according to their individual habilitation or service plans;	52442
(8) Family support services provided under section 5126.11 of	52443
the Revised Code.	52444
(D) Except as provided in division (G) of this section, a	52445
county board shall do, as priorities, all of the following in	52446
accordance with the assessment component, approved under section	52447
5123.046 of the Revised Code, of the county board's plan developed	52448
under section 5126.054 of the Revised Code:	52449
(1) For the purpose of obtaining additional federal medicaid	52450
funds for home and community-based services, <u>and</u> medicaid case	52451
management services, and habilitation center services , do both of	52452
the following:	52453
(a) Give an individual who is eligible for home and	52454
community-based services and meets both of the following	52455

requirements priority over any other individual on a waiting list	52456
established under division (C) of this section for home and	52457
community-based services that include supported living,	52458
residential services, or family support services:	52459
(i) Is twenty-two years of age or older;	52460
(ii) Receives supported living or family support services.	52461
(b) Give an individual who is eligible for home and	52462
community-based services and meets both of the following	52463
requirements priority over any other individual on a waiting list	52464
established under division (C) of this section for home and	52465
community-based services that include adult services:	52466
(i) Resides in the individual's own home or the home of the	52467
individual's family and will continue to reside in that home after	52468
enrollment in home and community-based services;	52469
(ii) Receives adult services from the county board.	52470
(2) As federal medicaid funds become available pursuant to	52471
division (D)(1) of this section, give an individual who is	52472
eligible for home and community-based services and meets any of	52473
the following requirements priority for such services over any	52474
other individual on a waiting list established under division (C)	52475
of this section:	52476
(a) Does not receive residential services or supported	52477
living, either needs services in the individual's current living	52478
arrangement or will need services in a new living arrangement, and	52479
has a primary caregiver who is sixty years of age or older;	52480
(b) Is less than twenty-two years of age and has at least one	52481
of the following service needs that are unusual in scope or	52482
intensity:	52483
(i) Severe behavior problems for which a behavior support	52484
plan is needed;	52485

(ii) An emotional disorder for which anti-psychotic medication is needed;	52486 52487
(iii) A medical condition that leaves the individual dependent on life-support medical technology;	52488 52489
(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;	52490 52491 52492
(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.	52493 52494 52495 52496
(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis.	52497 52498 52499 52500
(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this section of the individuals identified by the department and the individuals' assessed needs.	52501 52502 52503 52504 52505 52506 52507 52508 52509 52510 52511 52512 52513 52514 52515 52516

(E) Except as provided in division (G) of this section and 52517
for a number of years and beginning on a date specified in rules 52518
adopted under division (K) of this section, a county board shall 52519
give an individual who is eligible for home and community-based 52520
services, resides in a nursing facility, and chooses to move to 52521
another setting with the help of home and community-based 52522
services, priority over any other individual on a waiting list 52523
established under division (C) of this section for home and 52524
community-based services who does not meet these criteria. 52525

(F) If two or more individuals on a waiting list established 52526
under division (C) of this section for home and community-based 52527
services have priority for the services pursuant to division 52528
(D)(1) or (2) or (E) of this section, a county board may use, 52529
until December 31, ~~2005~~ 2007, criteria specified in rules adopted 52530
under division (K)(2) of this section in determining the order in 52531
which the individuals with priority will be offered the services. 52532
Otherwise, the county board shall offer the home and 52533
community-based services to such individuals in the order they are 52534
placed on the waiting list. 52535

(G)(1) No individual may receive priority for services 52536
pursuant to division (D) or (E) of this section over an individual 52537
placed on a waiting list established under division (C) of this 52538
section on an emergency status. 52539

(2) No more than four hundred individuals in the state may 52540
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007 52541
biennium pursuant to division (D)(2)(b) of this section. 52542

(3) No more than a total of seventy-five individuals in the 52543
state may receive priority for services during state fiscal years 52544
2002 and 2003 pursuant to division (D)(3) of this section. 52545

(4) No more than forty individuals in the state may receive 52546
priority for services pursuant to division (E) of this section for 52547

each year that priority category is in effect as specified in 52548
rules adopted under division (K) of this section. 52549

(H) Prior to establishing any waiting list under this 52550
section, a county board shall develop and implement a policy for 52551
waiting lists that complies with this section and rules adopted 52552
under division (K) of this section. 52553

Prior to placing an individual on a waiting list, the county 52554
board shall assess the service needs of the individual in 52555
accordance with all applicable state and federal laws. The county 52556
board shall place the individual on the appropriate waiting list 52557
and may place the individual on more than one waiting list. The 52558
county board shall notify the individual of the individual's 52559
placement and position on each waiting list on which the 52560
individual is placed. 52561

At least annually, the county board shall reassess the 52562
service needs of each individual on a waiting list. If it 52563
determines that an individual no longer needs a program or 52564
service, the county board shall remove the individual from the 52565
waiting list. If it determines that an individual needs a program 52566
or service other than the one for which the individual is on the 52567
waiting list, the county board shall provide the program or 52568
service to the individual or place the individual on a waiting 52569
list for the program or service in accordance with the board's 52570
policy for waiting lists. 52571

When a program or service for which there is a waiting list 52572
becomes available, the county board shall reassess the service 52573
needs of the individual next scheduled on the waiting list to 52574
receive that program or service. If the reassessment demonstrates 52575
that the individual continues to need the program or service, the 52576
board shall offer the program or service to the individual. If it 52577
determines that an individual no longer needs a program or 52578

service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists. The county board shall notify the
individual of the individual's placement and position on the
waiting list on which the individual is placed.

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(I) A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home and
community-based services provided through a medicaid component
that the department of mental retardation and developmental
disabilities administers under section 5111.871 of the Revised
Code shall receive services through that medicaid component. For
all other services, a child subject to a determination made
pursuant to section 121.38 of the Revised Code shall be treated as
an emergency by the county boards and shall not be subject to a
waiting list.

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(J) Not later than the fifteenth day of March of each
even-numbered year, each county board shall prepare and submit to
the director of mental retardation and developmental disabilities
its recommendations for the funding of services for individuals
with mental retardation and developmental disabilities and its
proposals for reducing the waiting lists for services.

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(K)(1) The department of mental retardation and developmental
disabilities shall adopt rules in accordance with Chapter 119. of
the Revised Code governing waiting lists established under this
section. The rules shall include procedures to be followed to
ensure that the due process rights of individuals placed on
waiting lists are not violated.

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(2) As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board may use under division (F) of this section in determining the order in which individuals with priority for home and community-based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services. The rules adopted under division (K)(2) of this section shall cease to have effect December 31, ~~2005~~ 2007.

(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

(a) The number of years, which shall not exceed five, that the priority category will be in effect;

(b) The date that the priority category is to go into effect.

(L) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following four

components:	52640
(1) An assessment component that includes all of the	52641
following:	52642
(a) The number of individuals with mental retardation or	52643
other developmental disability residing in the county who need the	52644
level of care provided by an intermediate care facility for the	52645
mentally retarded, may seek home and community-based services, are	52646
given priority for the services pursuant to division (D) of	52647
section 5126.042 of the Revised Code; the service needs of those	52648
individuals; and the projected annualized cost for services;	52649
(b) The source of funds available to the county board to pay	52650
the nonfederal share of medicaid expenditures that the county	52651
board is required by division (A) of section 5126.057 of the	52652
Revised Code to pay;	52653
(c) Any other applicable information or conditions that the	52654
department of mental retardation and developmental disabilities	52655
requires as a condition of approving the component under section	52656
5123.046 of the Revised Code.	52657
(2) A component that provides for the recruitment, training,	52658
and retention of existing and new direct care staff necessary to	52659
implement services included in individualized service plans,	52660
including behavior management services and health management	52661
services such as delegated nursing and other habilitation	52662
services, and protect the health and welfare of individuals	52663
receiving services included in the individual's individualized	52664
service plan by complying with safeguards for unusual and major	52665
unusual incidents, day-to-day program management, and other	52666
requirements the department shall identify. A county board shall	52667
develop this component in collaboration with providers of	52668
medicaid-funded services with which the county board contracts. A	52669
county board shall include all of the following in the component:	52670

(a) The source and amount of funds available for the component;	52671 52672
(b) A plan and timeline for implementing the component with the medicaid providers under contract with the county board;	52673 52674
(c) The mechanisms the county board shall use to ensure the financial and program accountability of the medicaid provider's implementation of the component.	52675 52676 52677
(3) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the priority given to them under divisions (D)(1) and (2) of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;	52678 52679 52680 52681 52682 52683
(4) A component that provides for the implementation of habilitation center services , medicaid case management services, and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:	52684 52685 52686 52687 52688 52689
(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay;	52690 52691 52692 52693 52694
(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section;	52695 52696 52697 52698 52699
(c) Any agreement or commitment regarding the county board's	52700

funding of home and community-based services that the county board 52701
has with the department at the time the county board develops the 52702
component; 52703

(d) Assurances adequate to the department that the county 52704
board will comply with all of the following requirements: 52705

(i) To provide the types of home and community-based services 52706
specified in the preliminary implementation component required by 52707
division (A)(3) of this section to at least the number of 52708
individuals specified in that component; 52709

(ii) To use any additional funds the county board receives 52710
for the services to improve the county board's resource 52711
capabilities for supporting such services available in the county 52712
at the time the component is developed and to expand the services 52713
to accommodate the unmet need for those services in the county; 52714

(iii) To employ a business manager who is either a new 52715
employee who has earned at least a bachelor's degree in business 52716
administration or a current employee who has the equivalent 52717
experience of a bachelor's degree in business administration. If 52718
the county board will employ a new employee, the county board 52719
shall include in the component a timeline for employing the 52720
employee. 52721

(iv) To employ or contract with a medicaid services manager 52722
who is either a new employee who has earned at least a bachelor's 52723
degree or a current employee who has the equivalent experience of 52724
a bachelor's degree. If the county board will employ a new 52725
employee, the county board shall include in the component a 52726
timeline for employing the employee. Two or three county boards 52727
that have a combined total enrollment in county board services not 52728
exceeding one thousand individuals as determined pursuant to 52729
certifications made under division (B) of section 5126.12 of the 52730
Revised Code may satisfy this requirement by sharing the services 52731

of a medicaid services manager or using the services of a medicaid 52732
services manager employed by or under contract with a regional 52733
council that the county boards establish under section 5126.13 of 52734
the Revised Code. 52735

(e) An agreement to comply with the method, developed by 52736
rules adopted under section 5123.0413 of the Revised Code, of 52737
paying for extraordinary costs, including extraordinary costs for 52738
services to individuals with mental retardation or other 52739
developmental disability, and ensuring the availability of 52740
adequate funds in the event a county property tax levy for 52741
services for individuals with mental retardation or other 52742
developmental disability fails; 52743

(f) Programmatic and financial accountability measures and 52744
projected outcomes expected from the implementation of the plan; 52745

(g) Any other applicable information or conditions that the 52746
department requires as a condition of approving the component 52747
under section 5123.046 of the Revised Code. 52748

(B) For the purpose of obtaining the department's approval 52749
under section 5123.046 of the Revised Code of the plan the county 52750
board develops under division (A) of this section, a county board 52751
shall do all of the following: 52752

(1) Submit the components required by divisions (A)(1) and 52753
(2) of this section to the department not later than August 1, 52754
2001; 52755

(2) Submit the component required by division (A)(3) of this 52756
section to the department not later than January 31, 2002; 52757

(3) Submit the component required by division (A)(4) of this 52758
section to the department not later than July 1, 2002. 52759

(C) A county board whose plan developed under division (A) of 52760
this section is approved by the department under section 5123.046 52761

of the Revised Code shall update and renew the plan in accordance 52762
with a schedule the department shall develop. 52763

Sec. 5126.055. (A) Except as provided in section 5126.056 of 52764
the Revised Code, a county board of mental retardation and 52765
developmental disabilities has medicaid local administrative 52766
authority to, and shall, do all of the following for an individual 52767
with mental retardation or other developmental disability who 52768
resides in the county that the county board serves and seeks or 52769
receives home and community-based services: 52770

(1) Perform assessments and evaluations of the individual. As 52771
part of the assessment and evaluation process, the county board 52772
shall do all of the following: 52773

(a) Make a recommendation to the department of mental 52774
retardation and developmental disabilities on whether the 52775
department should approve or deny the individual's application for 52776
the services, including on the basis of whether the individual 52777
needs the level of care an intermediate care facility for the 52778
mentally retarded provides; 52779

(b) If the individual's application is denied because of the 52780
county board's recommendation and the individual requests a 52781
hearing under section 5101.35 of the Revised Code, present, with 52782
the department of mental retardation and developmental 52783
disabilities or department of job and family services, whichever 52784
denies the application, the reasons for the recommendation and 52785
denial at the hearing; 52786

(c) If the individual's application is approved, recommend to 52787
the departments of mental retardation and developmental 52788
disabilities and job and family services the services that should 52789
be included in the individual's individualized service plan and, 52790
if either department approves, reduces, denies, or terminates a 52791

service included in the individual's individualized service plan 52792
under section 5111.871 of the Revised Code because of the county 52793
board's recommendation, present, with the department that made the 52794
approval, reduction, denial, or termination, the reasons for the 52795
recommendation and approval, reduction, denial, or termination at 52796
a hearing under section 5101.35 of the Revised Code. 52797

(2) If the individual has been identified by the department 52798
of mental retardation and developmental disabilities as an 52799
individual to receive priority for home and community-based 52800
services pursuant to division (D)(3) of section 5126.042 of the 52801
Revised Code, assist the department in expediting the transfer of 52802
the individual from an intermediate care facility for the mentally 52803
retarded or nursing facility to the home and community-based 52804
services; 52805

(3) In accordance with the rules adopted under section 52806
5126.046 of the Revised Code, perform the county board's duties 52807
under that section regarding assisting the individual's right to 52808
choose a qualified and willing provider of the services and, at a 52809
hearing under section 5101.35 of the Revised Code, present 52810
evidence of the process for appropriate assistance in choosing 52811
providers; 52812

(4) Unless the county board provides the services under 52813
division (A)(5) of this section, contract with the person or 52814
government entity the individual chooses in accordance with 52815
section 5126.046 of the Revised Code to provide the services if 52816
the person or government entity is qualified and agrees to provide 52817
the services. The contract shall contain all the provisions 52818
required by section 5126.035 of the Revised Code and require the 52819
provider to agree to furnish, in accordance with the provider's 52820
medicaid provider agreement and for the authorized reimbursement 52821
rate, the services the individual requires. 52822

(5) If the county board is certified under section 5123.045 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(6) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.

(7) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of mental retardation and developmental disabilities and job and family services approve the plan, and implement the plan unless either department disapproves it;

(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(9) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.

~~(B) Except as provided in section 5126.056 of the Revised Code, a county board has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives medicaid case management services or habilitation center services, other than habilitation center services for which a school~~

~~district is required by division (E) of section 5111.041 of the Revised Code to pay the nonfederal share;~~ 52854
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~~(1) Perform assessments and evaluations of the individual for the purpose of recommending to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan;~~ 52856
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~~(2) If the department of mental retardation and developmental disabilities or department of job and family services approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.041 or 5111.042 of the Revised Code because of the county board's recommendation under division (B)(1) of this section, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code and inform the individual that the individual may file a complaint with the county board under section 5126.06 of the Revised Code at the same time the individual pursues an appeal under section 5101.35 of the Revised Code;~~ 52861
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~~(3) In accordance with rules the departments of mental retardation and developmental disabilities and job and family services shall adopt in accordance with Chapter 119. of the Revised Code governing the process for individuals to choose providers of medicaid case management services and habilitation center services, assist the individual in choosing the provider of the services. The rules shall provide for both of the following;~~ 52875
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~~(a) The county board providing the individual up to date information about qualified providers that the department of mental retardation and developmental disabilities shall make available to the county board;~~ 52882
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~~(b) If the individual chooses a provider who is qualified and willing to provide the services but is denied that provider, the individual receiving timely notice that the individual may request a hearing under section 5101.35 of the Revised Code and, at the hearing, the county board presenting evidence of the process for appropriate assistance in choosing providers.~~

~~(4) Unless the county board provides the services under division (B)(5) of this section, contract with the person or government entity that the individual chooses in accordance with the rules adopted under division (B)(3) of this section to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.~~

~~(5) If the county board is certified under section 5123.041 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;~~

~~(6) Monitor the services provided to the individual. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.~~

~~(7) Develop with the individual and the provider of the individual's services, and with the approval of the departments of mental retardation and developmental disabilities and job and~~

~~family services, implement an effective plan for coordinating the~~ 52917
~~services in accordance with the individual's approved~~ 52918
~~individualized service plan;~~ 52919

~~(8) Have an investigative agent conduct investigations under~~ 52920
~~section 5126.313 of the Revised Code that concern the individual;~~ 52921

~~(9) Have a service and support administrator perform the~~ 52922
~~duties under division (B)(9) of section 5126.15 of the Revised~~ 52923
~~Code that concern the individual.~~ 52924

~~(C)~~ A county board shall perform its medicaid local 52925
administrative authority under this section in accordance with all 52926
of the following: 52927

(1) The county board's plan that the department of mental 52928
retardation and developmental disabilities approves under section 52929
5123.046 of the Revised Code; 52930

(2) All applicable federal and state laws; 52931

(3) All applicable policies of the departments of mental 52932
retardation and developmental disabilities and job and family 52933
services and the United States department of health and human 52934
services; 52935

(4) The department of job and family services' supervision 52936
under its authority under section 5111.01 of the Revised Code to 52937
act as the single state medicaid agency; 52938

(5) The department of mental retardation and developmental 52939
disabilities' oversight. 52940

~~(D)~~(C) The departments of mental retardation and 52941
developmental disabilities and job and family services shall 52942
communicate with and provide training to county boards regarding 52943
medicaid local administrative authority granted by this section. 52944
The communication and training shall include issues regarding 52945
audit protocols and other standards established by the United 52946

States department of health and human services that the 52947
departments determine appropriate for communication and training. 52948
County boards shall participate in the training. The departments 52949
shall assess the county board's compliance against uniform 52950
standards that the departments shall establish. 52951

~~(E)~~(D) A county board may not delegate its medicaid local 52952
administrative authority granted under this section but may 52953
contract with a person or government entity, including a council 52954
of governments, for assistance with its medicaid local 52955
administrative authority. A county board that enters into such a 52956
contract shall notify the director of mental retardation and 52957
developmental disabilities. The notice shall include the tasks and 52958
responsibilities that the contract gives to the person or 52959
government entity. The person or government entity shall comply in 52960
full with all requirements to which the county board is subject 52961
regarding the person or government entity's tasks and 52962
responsibilities under the contract. The county board remains 52963
ultimately responsible for the tasks and responsibilities. 52964

~~(F)~~(E) A county board that has medicaid local administrative 52965
authority under this section shall, through the departments of 52966
mental retardation and developmental disabilities and job and 52967
family services, reply to, and cooperate in arranging compliance 52968
with, a program or fiscal audit or program violation exception 52969
that a state or federal audit or review discovers. The department 52970
of job and family services shall timely notify the department of 52971
mental retardation and developmental disabilities and the county 52972
board of any adverse findings. After receiving the notice, the 52973
county board, in conjunction with the department of mental 52974
retardation and developmental disabilities, shall cooperate fully 52975
with the department of job and family services and timely prepare 52976
and send to the department a written plan of correction or 52977
response to the adverse findings. The county board is liable for 52978

any adverse findings that result from an action it takes or fails 52979
to take in its implementation of medicaid local administrative 52980
authority. 52981

~~(G)~~(F) If the department of mental retardation and 52982
developmental disabilities or department of job and family 52983
services determines that a county board's implementation of its 52984
medicaid local administrative authority under this section is 52985
deficient, the department that makes the determination shall 52986
require that county board do the following: 52987

(1) If the deficiency affects the health, safety, or welfare 52988
of an individual with mental retardation or other developmental 52989
disability, correct the deficiency within twenty-four hours; 52990

(2) If the deficiency does not affect the health, safety, or 52991
welfare of an individual with mental retardation or other 52992
developmental disability, receive technical assistance from the 52993
department or submit a plan of correction to the department that 52994
is acceptable to the department within sixty days and correct the 52995
deficiency within the time required by the plan of correction. 52996

Sec. 5126.056. (A) The department of mental retardation and 52997
developmental disabilities shall take action under division (B) of 52998
this section against a county board of mental retardation and 52999
developmental disabilities if any of the following are the case: 53000

(1) The county board fails to submit to the department all 53001
the components of its three-year plan required by section 5126.054 53002
of the Revised Code within the time required by division (B) of 53003
that section. 53004

(2) The department disapproves the county board's three-year 53005
plan under section 5123.046 of the Revised Code. 53006

(3) The county board fails, as required by division (C) of 53007
section 5126.054 of the Revised Code, to update and renew its 53008

three-year plan in accordance with a schedule the department
develops under that section. 53009
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(4) The county board fails to implement its initial or
renewed three-year plan approved by the department. 53011
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(5) The county board fails to correct a deficiency within the
time required by division ~~(G)~~(F) of section 5126.055 of the
Revised Code to the satisfaction of the department. 53013
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(6) The county board fails to submit an acceptable plan of
correction to the department within the time required by division
~~(G)~~(F)(2) of section 5126.055 of the Revised Code. 53016
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(B) If required by division (A) of this section to take
action against a county board, the department shall issue an order
terminating the county board's medicaid local administrative
authority over all or part of home and community-based services,
medicaid case management services, ~~habilitation center services,~~
~~all or part of two of those services,~~ or all or part of ~~all three~~
both of those services. The department shall provide a copy of the
order to the board of county commissioners, probate judge, county
auditor, and president and superintendent of the county board. The
department shall specify in the order the medicaid local
administrative authority that the department is terminating, the
reason for the termination, and the county board's option and
responsibilities under this division. 53019
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A county board whose medicaid local administrative authority
is terminated may, not later than thirty days after the department
issues the termination order, recommend to the department that
another county board that has not had any of its medicaid local
administrative authority terminated or another entity the
department approves administer the services for which the county
board's medicaid local administrative authority is terminated. The
department may contract with the other county board or entity to 53032
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administer the services. If the department enters into such a
contract, the county board shall adopt a resolution giving the
other county board or entity full medicaid local administrative
authority over the services that the other county board or entity
is to administer. The other county board or entity shall be known
as the contracting authority.

If the department rejects the county board's recommendation
regarding a contracting authority, the county board may appeal the
rejection under section 5123.043 of the Revised Code.

If the county board does not submit a recommendation to the
department regarding a contracting authority within the required
time or the department rejects the county board's recommendation
and the rejection is upheld pursuant to an appeal, if any, under
section 5123.043 of the Revised Code, the department shall appoint
an administrative receiver to administer the services for which
the county board's medicaid local administrative authority is
terminated. To the extent necessary for the department to appoint
an administrative receiver, the department may utilize employees
of the department, management personnel from another county board,
or other individuals who are not employed by or affiliated with in
any manner a person that provides home and community-based
services, or medicaid case management services, ~~or habilitation~~
~~center services~~ pursuant to a contract with any county board. The
administrative receiver shall assume full administrative
responsibility for the county board's services for which the
county board's medicaid local administrative authority is
terminated.

The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver

shall implement the plan. 53072

The county board shall transfer control of state and federal 53073
funds it is otherwise eligible to receive for the services for 53074
which the county board's medicaid local administrative authority 53075
is terminated and funds the county board may use under division 53076
(B) of section 5126.057 of the Revised Code to pay the nonfederal 53077
share of the services that the county board is required by 53078
division (A) of that section to pay. The county board shall 53079
transfer control of the funds to the contracting authority or 53080
administrative receiver administering the services. The amount the 53081
county board shall transfer shall be the amount necessary for the 53082
contracting authority or administrative receiver to fulfill its 53083
duties in administering the services, including its duties to pay 53084
its personnel for time worked, travel, and related matters. If the 53085
county board fails to make the transfer, the department may 53086
withhold the state and federal funds from the county board and 53087
bring a mandamus action against the county board in the court of 53088
common pleas of the county served by the county board or in the 53089
Franklin county court of common pleas. The mandamus action may not 53090
require that the county board transfer any funds other than the 53091
funds the county board is required by division (B) of this section 53092
to transfer. 53093

The contracting authority or administrative receiver has the 53094
right to authorize the payment of bills in the same manner that 53095
the county board may authorize payment of bills under this chapter 53096
and section 319.16 of the Revised Code. 53097

Sec. 5126.057. (A) A county board of mental retardation and 53098
developmental disabilities that has medicaid local administrative 53099
authority under division (A) of section 5126.055 of the Revised 53100
Code for home and community-based services shall pay the 53101
nonfederal share of medicaid expenditures for such services 53102

provided to an individual with mental retardation or other 53103
developmental disability who the county board determines under 53104
section 5126.041 of the Revised Code is eligible for county board 53105
services unless division ~~(C)~~(B)(2) of section 5123.047 of the 53106
Revised Code requires the department of mental retardation and 53107
developmental disabilities to pay the nonfederal share. 53108

A county board that ~~has medicaid local administrative~~ 53109
~~authority under division (B) of section 5126.055 of the Revised~~ 53110
~~Code for~~ provides medicaid case management services shall pay the 53111
nonfederal share of medicaid expenditures for such services 53112
provided to an individual with mental retardation or other 53113
developmental disability who the county board determines under 53114
section 5126.041 of the Revised Code is eligible for county board 53115
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 53116
~~Code requires the department of mental retardation and~~ 53117
~~developmental disabilities to pay the nonfederal share.~~ 53118

~~A county board shall pay the nonfederal share of medicaid~~ 53119
~~expenditures for habilitation center services when required to do~~ 53120
~~so by division (D) of section 5111.041 of the Revised Code.~~ 53121

(B) A county board may use the following funds to pay the 53122
nonfederal share of the services that the county board is required 53123
by division (A) of this section to pay: 53124

(1) To the extent consistent with the levy that generated the 53125
taxes, the following taxes: 53126

(a) Taxes levied pursuant to division (L) of section 5705.19 53127
of the Revised Code and section 5705.222 of the Revised Code; 53128

(b) Taxes levied under section 5705.191 of the Revised Code 53129
that the board of county commissioners allocates to the county 53130
board to pay the nonfederal share of the services. 53131

(2) Funds that the department of mental retardation and 53132

developmental disabilities distributes to the county board under 53133
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 53134
Revised Code; 53135

~~(3) Funds that the department allocates to the county board 53136
for habilitation center services provided under section 5111.041 53137
of the Revised Code; 53138~~

~~(4) Earned federal revenue funds the county board receives 53139
for medicaid services the county board provides pursuant to the 53140
county board's valid medicaid provider agreement. 53141~~

(C) If by December 31, 2001, the United States secretary of 53142
health and human services approves at least five hundred more 53143
slots for home and community-based services for calendar year 2002 53144
than were available for calendar year 2001, each county board 53145
shall provide, by the last day of calendar year 2001, assurances 53146
to the department of mental retardation and developmental 53147
disabilities that the county board will have for calendar year 53148
2002 at least one-third of the value of one-half, effective mill 53149
levied in the county the preceding year available to pay the 53150
nonfederal share of the services that the county board is required 53151
by division (A) of this section to pay. 53152

If by December 31, 2002, the United States secretary approves 53153
at least five hundred more slots for home and community-based 53154
services for calendar year 2003 than were available for calendar 53155
year 2002, each county board shall provide, by the last day of 53156
calendar year 2002, assurances to the department that the county 53157
board will have for calendar year 2003 at least two-thirds of the 53158
value of one-half, effective mill levied in the county the 53159
preceding year available to pay the nonfederal share of the 53160
services that the county board is required by division (A) of this 53161
section to pay. 53162

If by December 31, 2003, the United States secretary approves 53163

at least five hundred more slots for home and community-based 53164
services for calendar year 2004 than were available for calendar 53165
year 2003, each county board shall provide, by the last day of 53166
calendar year 2003 and each calendar year thereafter, assurances 53167
to the department that the county board will have for calendar 53168
year 2004 and each calendar year thereafter at least the value of 53169
one-half, effective mill levied in the county the preceding year 53170
available to pay the nonfederal share of the services that the 53171
county board is required by division (A) of this section to pay. 53172

(D) Each year, each county board shall adopt a resolution 53173
specifying the amount of funds it will use in the next year to pay 53174
the nonfederal share of the services that the county board is 53175
required by division (A) of this section to pay. The amount 53176
specified shall be adequate to assure that the services will be 53177
available in the county in a manner that conforms to all 53178
applicable state and federal laws. A county board shall state in 53179
its resolution that the payment of the nonfederal share represents 53180
an ongoing financial commitment of the county board. A county 53181
board shall adopt the resolution in time for the county auditor to 53182
make the determination required by division (E) of this section. 53183

(E) Each year, a county auditor shall determine whether the 53184
amount of funds a county board specifies in the resolution it 53185
adopts under division (D) of this section will be available in the 53186
following year for the county board to pay the nonfederal share of 53187
the services that the county board is required by division (A) of 53188
this section to pay. The county auditor shall make the 53189
determination not later than the last day of the year before the 53190
year in which the funds are to be used. 53191

Sec. 5126.12. (A) As used in this section: 53192

(1) "Approved school age class" means a class operated by a 53193
county board of mental retardation and developmental disabilities 53194

and funded by the department of education under section 3317.20 of the Revised Code. 53195
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(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code. 53197
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(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status. 53201
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(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in home and community-based services. 53210
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~~(5) "Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.~~ 53218
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~~(6)~~ "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services. 53222
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(B) Each county board of mental retardation and developmental 53225

disabilities shall certify to the director of mental retardation	53226
and developmental disabilities all of the following:	53227
(1) On or before the fifteenth day of October, the average	53228
daily membership for the first full week of programs and services	53229
during October receiving:	53230
(a) Early childhood services provided pursuant to section	53231
5126.05 of the Revised Code for children who are less than three	53232
years of age on the thirtieth day of September of the academic	53233
year;	53234
(b) Special education for handicapped children in approved	53235
school age classes;	53236
(c) Adult services for persons sixteen years of age and older	53237
operated pursuant to section 5126.05 and division (B) of section	53238
5126.051 of the Revised Code. Separate counts shall be made for	53239
the following:	53240
(i) Persons enrolled in traditional adult services who are	53241
eligible for but not enrolled in active treatment under the	53242
community alternative funding system;	53243
(ii) Persons enrolled in traditional adult services who are	53244
eligible for and enrolled in active treatment under the community	53245
alternative funding system;	53246
(iii) Persons enrolled in traditional adult services but who	53247
are not eligible for active treatment under the community	53248
alternative funding system;	53249
(iv) Persons participating in community employment services.	53250
To be counted as participating in community employment services, a	53251
person must have spent an average of no less than ten hours per	53252
week in that employment during the preceding six months.	53253
(d) Other programs in the county for individuals with mental	53254
retardation and developmental disabilities that have been approved	53255

for payment of subsidy by the department of mental retardation and 53256
developmental disabilities. 53257

The membership in each such program and service in the county 53258
shall be reported on forms prescribed by the department of mental 53259
retardation and developmental disabilities. 53260

The department of mental retardation and developmental 53261
disabilities shall adopt rules defining full-time equivalent 53262
enrollees and for determining the average daily membership 53263
therefrom, except that certification of average daily membership 53264
in approved school age classes shall be in accordance with rules 53265
adopted by the state board of education. The average daily 53266
membership figure shall be determined by dividing the amount 53267
representing the sum of the number of enrollees in each program or 53268
service in the week for which the certification is made by the 53269
number of days the program or service was offered in that week. No 53270
enrollee may be counted in average daily membership for more than 53271
one program or service. 53272

(2) By the fifteenth day of December, the number of children 53273
enrolled in approved preschool units on the first day of December; 53274

(3) On or before the thirtieth day of March, an itemized 53275
report of all income and operating expenditures for the 53276
immediately preceding calendar year, in the format specified by 53277
the department of mental retardation and developmental 53278
disabilities; 53279

(4) By the fifteenth day of February, a report of the total 53280
annual cost per enrollee for operation of programs and services in 53281
the preceding calendar year. The report shall include a grand 53282
total of all programs operated, the cost of the individual 53283
programs, and the sources of funds applied to each program. 53284

(5) That each required certification and report is in 53285
accordance with rules established by the department of mental 53286

retardation and developmental disabilities and the state board of
education for the operation and subsidization of the programs and
services. 53287
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(C) To compute payments under this section to the board for
the fiscal year, the department of mental retardation and
developmental disabilities shall use the certification of average
daily membership required by division (B)(1) of this section
exclusive of the average daily membership in any approved school
age class and the number in any approved preschool unit. 53290
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(D) The department shall pay each county board for each
fiscal year an amount equal to nine hundred fifty dollars times
the certified number of persons who on the first day of December
of the academic year are under three years of age and are not in
an approved preschool unit. For persons who are at least age
sixteen and are not in an approved school age class, the
department shall pay each county board for each fiscal year the
following amounts: 53296
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(1) One thousand dollars times the certified average daily
membership of persons enrolled in traditional adult services who
are eligible for but not enrolled in active treatment ~~under the
community alternative funding system;~~ 53304
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(2) One thousand two hundred dollars times the certified
average daily membership of persons enrolled in traditional adult
services who are eligible for and enrolled in active treatment
~~under the community alternative funding system;~~ 53308
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(3) No less than one thousand five hundred dollars times the
certified average daily membership of persons enrolled in
traditional adult services but who are not eligible for active
treatment ~~under the community alternative funding system;~~ 53312
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(4) No less than one thousand five hundred dollars times the
certified average daily membership of persons participating in 53316
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community employment services. 53318

(E) The department shall distribute this subsidy to county 53319
boards in quarterly installments of equal amounts. The 53320
installments shall be made not later than the thirtieth day of 53321
September, the thirty-first day of December, the thirty-first day 53322
of March, and the thirtieth day of June. 53323

(F) The director of mental retardation and developmental 53324
disabilities shall make efforts to obtain increases in the 53325
subsidies for early childhood services and adult services so that 53326
the amount of the subsidies is equal to at least fifty per cent of 53327
the statewide average cost of those services minus any applicable 53328
federal reimbursements for those services. The director shall 53329
advise the director of budget and management of the need for any 53330
such increases when submitting the biennial appropriations request 53331
for the department. 53332

(G) In determining the reimbursement of a county board for 53333
the provision of service and support administration, family 53334
support services, and other services required or approved by the 53335
director for which children three through twenty-one years of age 53336
are eligible, the department shall include the average daily 53337
membership in approved school age or preschool units. The 53338
department, in accordance with this section and upon receipt and 53339
approval of the certification required by this section and any 53340
other information it requires to enable it to determine a board's 53341
payments, shall pay the agency providing the specialized training 53342
the amounts payable under this section. 53343

Sec. 5139.01. (A) As used in this chapter: 53344

(1) "Commitment" means the transfer of the physical custody 53345
of a child or youth from the court to the department of youth 53346
services. 53347

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services. 53348
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(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities. 53350
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(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents. 53365
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(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks. 53371
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(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or 53373
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until the legal custody is terminated as otherwise provided by law. 53379
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(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. 53381
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(8) "Discharge" means that the department of youth services' legal custody of a child is terminated. 53384
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(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. 53386
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(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 53390
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(11) "Felony delinquent" means any child who is at least 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. 53392
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(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 53400
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(13) "Public safety beds" means all of the following: 53402

(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 53403
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community corrections facility; 53409

(b) Felony delinquents who, while committed to the department 53410
of youth services and in the care and custody of an institution or 53411
a community corrections facility, are adjudicated delinquent 53412
children for having committed in that institution or community 53413
corrections facility an act that if committed by an adult would be 53414
a misdemeanor or a felony; 53415

(c) Children who satisfy all of the following: 53416

(i) They are at least ten years of age but less than eighteen 53417
years of age. 53418

(ii) They are adjudicated delinquent children for having 53419
committed acts that if committed by an adult would be a felony. 53420

(iii) They are committed to the department of youth services 53421
by the juvenile court of a county that has had one-tenth of one 53422
per cent or less of the statewide adjudications for felony 53423
delinquents as averaged for the past four fiscal years. 53424

(iv) They are in the care and custody of an institution or a 53425
community corrections facility. 53426

(d) Felony delinquents who, while committed to the department 53427
of youth services and in the care and custody of an institution 53428
are serving disciplinary time for having committed an act 53429
described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 53430
and who have been institutionalized or institutionalized in a 53431
secure facility for the minimum period of time specified in 53432
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 53433

(e) Felony delinquents who are subject to and serving a 53434
three-year period of commitment order imposed by a juvenile court 53435
pursuant to divisions (A) and (B) of section 2152.17 of the 53436
Revised Code for an act, other than a violation of section 2911.11 53437
of the Revised Code, that would be a category one offense or 53438

category two offense if committed by an adult. 53439

(f) Felony delinquents who are described in divisions 53440
(A)(13)(a) to (e) of this section, who have been granted a 53441
judicial release to court supervision under division (B) of 53442
section 2152.22 of the Revised Code or a judicial release to the 53443
department of youth services supervision under division (C) of 53444
that section from the commitment to the department of youth 53445
services for the act described in divisions (A)(13)(a) to (e) of 53446
this section, who have violated the terms and conditions of that 53447
release, and who, pursuant to an order of the court of the county 53448
in which the particular felony delinquent was placed on release 53449
that is issued pursuant to division (D) of section 2152.22 of the 53450
Revised Code, have been returned to the department for 53451
institutionalization or institutionalization in a secure facility. 53452

(g) Felony delinquents who have been committed to the custody 53453
of the department of youth services, who have been granted 53454
supervised release from the commitment pursuant to section 5139.51 53455
of the Revised Code, who have violated the terms and conditions of 53456
that supervised release, and who, pursuant to an order of the 53457
court of the county in which the particular child was placed on 53458
supervised release issued pursuant to division (F) of section 53459
5139.52 of the Revised Code, have had the supervised release 53460
revoked and have been returned to the department for 53461
institutionalization. A felony delinquent described in this 53462
division shall be a public safety bed only for the time during 53463
which the felony delinquent is institutionalized as a result of 53464
the revocation subsequent to the initial thirty-day period of 53465
institutionalization required by division (F) of section 5139.52 53466
of the Revised Code. 53467

(14) Unless the context requires a different meaning, 53468
"community corrections facility" means a county or multicounty 53469
rehabilitation center for felony delinquents who have been 53470

committed to the department of youth services and diverted from 53471
care and custody in an institution and placed in the 53472
rehabilitation center pursuant to division (E) of section 5139.36 53473
of the Revised Code. 53474

(15) "Secure facility" means any facility that is designed 53475
and operated to ensure that all of its entrances and exits are 53476
under the exclusive control of its staff and to ensure that, 53477
because of that exclusive control, no child who has been 53478
institutionalized in the facility may leave the facility without 53479
permission or supervision. 53480

(16) "Community residential program" means a program that 53481
satisfies both of the following: 53482

(a) It is housed in a building or other structure that has no 53483
associated major restraining construction, including, but not 53484
limited to, a security fence. 53485

(b) It provides twenty-four-hour care, supervision, and 53486
programs for felony delinquents who are in residence. 53487

(17) "Category one offense" and "category two offense" have 53488
the same meanings as in section 2151.26 of the Revised Code. 53489

(18) "Disciplinary time" means additional time that the 53490
department of youth services requires a felony delinquent to serve 53491
in an institution, that delays the felony delinquent's planned 53492
release, and that the department imposes upon the felony 53493
delinquent following the conduct of an internal due process 53494
hearing for having committed any of the following acts while 53495
committed to the department and in the care and custody of an 53496
institution: 53497

(a) An act that if committed by an adult would be a felony; 53498

(b) An act that if committed by an adult would be a 53499
misdemeanor; 53500

(c) An act that is not described in division (A)(18)(a) or 53501
(b) of this section and that violates an institutional rule of 53502
conduct of the department. 53503

(19) "Unruly child" has the same meaning as in section 53504
2151.022 of the Revised Code. 53505

(20) "Revocation" means the act of revoking a child's 53506
supervised release for a violation of a term or condition of the 53507
child's supervised release in accordance with section 5139.52 of 53508
the Revised Code. 53509

(21) "Release authority" means the release authority of the 53510
department of youth services that is established by section 53511
5139.50 of the Revised Code. 53512

(22) "Supervised release" means the event of the release of a 53513
child under this chapter from an institution and the period after 53514
that release during which the child is supervised and assisted by 53515
an employee of the department of youth services under specific 53516
terms and conditions for reintegration of the child into the 53517
community. 53518

(23) "Victim" means the person identified in a police report, 53519
complaint, or information as the victim of an act that would have 53520
been a criminal offense if committed by an adult and that provided 53521
the basis for adjudication proceedings resulting in a child's 53522
commitment to the legal custody of the department of youth 53523
services. 53524

(24) "Victim's representative" means a member of the victim's 53525
family or another person whom the victim or another authorized 53526
person designates in writing, pursuant to section 5139.56 of the 53527
Revised Code, to represent the victim with respect to proceedings 53528
of the release authority of the department of youth services and 53529
with respect to other matters specified in that section. 53530

(25) "Member of the victim's family" means a spouse, child, 53531
stepchild, sibling, parent, stepparent, grandparent, other 53532
relative, or legal guardian of a child but does not include a 53533
person charged with, convicted of, or adjudicated a delinquent 53534
child for committing a criminal or delinquent act against the 53535
victim or another criminal or delinquent act arising out of the 53536
same conduct, criminal or delinquent episode, or plan as the 53537
criminal or delinquent act committed against the victim. 53538

(26) "Judicial release to court supervision" means a release 53539
of a child from institutional care or institutional care in a 53540
secure facility that is granted by a court pursuant to division 53541
(B) of section 2152.22 of the Revised Code during the period 53542
specified in that division. 53543

(27) "Judicial release to department of youth services 53544
supervision" means a release of a child from institutional care or 53545
institutional care in a secure facility that is granted by a court 53546
pursuant to division (C) of section 2152.22 of the Revised Code 53547
during the period specified in that division. 53548

(28) "Juvenile justice system" includes all of the functions 53549
of the juvenile courts, the department of youth services, any 53550
public or private agency whose purposes include the prevention of 53551
delinquency or the diversion, adjudication, detention, or 53552
rehabilitation of delinquent children, and any of the functions of 53553
the criminal justice system that are applicable to children. 53554

(29) "Metropolitan county criminal justice services agency" 53555
means an agency that is established pursuant to division (A) of 53556
section ~~181.54~~ 5502.64 of the Revised Code. 53557

(30) "Administrative planning district" means a district that 53558
is established pursuant to division (A) or (B) of section ~~181.56~~ 53559
5502.66 of the Revised Code. 53560

(31) "Criminal justice coordinating council" means a criminal 53561

justice services agency that is established pursuant to division 53562
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 53563

(32) "Comprehensive plan" means a document that coordinates, 53564
evaluates, and otherwise assists, on an annual or multi-year 53565
basis, all of the functions of the juvenile justice systems of the 53566
state or a specified area of the state, that conforms to the 53567
priorities of the state with respect to juvenile justice systems, 53568
and that conforms with the requirements of all federal criminal 53569
justice acts. These functions include, but are not limited to, all 53570
of the following: 53571

(a) Delinquency; 53572

(b) Identification, detection, apprehension, and detention of 53573
persons charged with delinquent acts; 53574

(c) Assistance to crime victims or witnesses, except that the 53575
comprehensive plan does not include the functions of the attorney 53576
general pursuant to sections 109.91 and 109.92 of the Revised 53577
Code; 53578

(d) Adjudication or diversion of persons charged with 53579
delinquent acts; 53580

(e) Custodial treatment of delinquent children; 53581

(f) Institutional and noninstitutional rehabilitation of 53582
delinquent children. 53583

(B) There is hereby created the department of youth services. 53584
The governor shall appoint the director of the department with the 53585
advice and consent of the senate. The director shall hold office 53586
during the term of the appointing governor but subject to removal 53587
at the pleasure of the governor. Except as otherwise authorized in 53588
section 108.05 of the Revised Code, the director shall devote the 53589
director's entire time to the duties of the director's office and 53590
shall hold no other office or position of trust or profit during 53591

the director's term of office. 53592

The director is the chief executive and administrative 53593
officer of the department and has all the powers of a department 53594
head set forth in Chapter 121. of the Revised Code. The director 53595
may adopt rules for the government of the department, the conduct 53596
of its officers and employees, the performance of its business, 53597
and the custody, use, and preservation of the department's 53598
records, papers, books, documents, and property. The director 53599
shall be an appointing authority within the meaning of Chapter 53600
124. of the Revised Code. Whenever this or any other chapter or 53601
section of the Revised Code imposes a duty on or requires an 53602
action of the department, the duty or action shall be performed by 53603
the director or, upon the director's order, in the name of the 53604
department. 53605

Sec. 5139.36. (A) In accordance with this section and the 53606
rules adopted under it and from funds appropriated to the 53607
department of youth services for the purposes of this section, the 53608
department shall make grants that provide financial resources to 53609
operate community corrections facilities for felony delinquents. 53610

(B)(1) Each community corrections facility that intends to 53611
seek a grant under this section shall file an application with the 53612
department of youth services at the time and in accordance with 53613
the procedures that the department shall establish by rules 53614
adopted in accordance with Chapter 119. of the Revised Code. In 53615
addition to other items required to be included in the 53616
application, a plan that satisfies both of the following shall be 53617
included: 53618

(a) It reduces the number of felony delinquents committed to 53619
the department from the county or counties associated with the 53620
community corrections facility. 53621

(b) It ensures equal access for minority felony delinquents 53622
to the programs and services for which a potential grant would be 53623
used. 53624

(2) The department of youth services shall review each 53625
application submitted pursuant to division (B)(1) of this section 53626
to determine whether the plan described in that division, the 53627
community corrections facility, and the application comply with 53628
this section and the rules adopted under it. 53629

(C) To be eligible for a grant under this section and for 53630
continued receipt of moneys comprising a grant under this section, 53631
a community corrections facility shall satisfy at least all of the 53632
following requirements: 53633

(1) Be constructed, reconstructed, improved, or financed by 53634
the Ohio building authority pursuant to section 307.021 of the 53635
Revised Code and Chapter 152. of the Revised Code for the use of 53636
the department of youth services and be designated as a community 53637
corrections facility; 53638

(2) Have written standardized criteria governing the types of 53639
felony delinquents that are eligible for the programs and services 53640
provided by the facility; 53641

(3) Have a written standardized intake screening process and 53642
an intake committee that at least performs both of the following 53643
tasks: 53644

(a) Screens all eligible felony delinquents who are being 53645
considered for admission to the facility in lieu of commitment to 53646
the department; 53647

(b) Notifies, within ten days after the date of the referral 53648
of a felony delinquent to the facility, the committing court 53649
whether the felony delinquent will be admitted to the facility. 53650

(4) Comply with all applicable fiscal and program rules that 53651

the department adopts in accordance with Chapter 119. of the
Revised Code and demonstrate that felony delinquents served by the
facility have been or will be diverted from a commitment to the
department.

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(D) The department of youth services shall determine the
method of distribution of the funds appropriated for grants under
this section to community corrections facilities.

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(E)(1) The department of youth services shall adopt rules in
accordance with Chapter 119. of the Revised Code to establish the
minimum occupancy threshold of community corrections facilities.

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(2) The department may make referrals for the placement of
children in its custody to a community corrections facility ~~if the
community corrections facility is not meeting the minimum
occupancy threshold established by the department.~~ At least
forty-five days prior to the referral of a child or within any
shorter period prior to the referral of the child that the
committing court may allow, the department shall notify the
committing court of its intent to place the child in a community
corrections facility. The court shall have thirty days after the
receipt of the notice to approve or disapprove the placement. If
the court does not respond to the notice of the placement within
that thirty-day period, the department shall proceed with the
placement and debit the county in accordance with sections 5139.41
to 5139.43 of the Revised Code. A child placed in a community
corrections facility pursuant to this division shall remain in the
legal custody of the department of youth services during the
period in which the child is in the community corrections
facility.

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(3) Counties that are not associated with a community
corrections facility may refer children to a community corrections
facility with the consent of the facility. The department of youth

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services shall debit the county that makes the referral in 53683
accordance with sections 5139.41 to 5139.43 of the Revised Code. 53684

(F) If the board or other governing body of a community 53685
corrections facility establishes an advisory board, the board or 53686
other governing authority of the community corrections facility 53687
shall reimburse the members of the advisory board for their actual 53688
and necessary expenses incurred in the performance of their 53689
official duties on the advisory board. The members of advisory 53690
boards shall serve without compensation. 53691

Sec. 5153.16. (A) Except as provided in section 2151.422 of 53692
the Revised Code, in accordance with rules of the department of 53693
job and family services, and on behalf of children in the county 53694
whom the public children services agency considers to be in need 53695
of public care or protective services, the public children 53696
services agency shall do all of the following: 53697

(1) Make an investigation concerning any child alleged to be 53698
an abused, neglected, or dependent child; 53699

(2) Enter into agreements with the parent, guardian, or other 53700
person having legal custody of any child, or with the department 53701
of job and family services, department of mental health, 53702
department of mental retardation and developmental disabilities, 53703
other department, any certified organization within or outside the 53704
county, or any agency or institution outside the state, having 53705
legal custody of any child, with respect to the custody, care, or 53706
placement of any child, or with respect to any matter, in the 53707
interests of the child, provided the permanent custody of a child 53708
shall not be transferred by a parent to the public children 53709
services agency without the consent of the juvenile court; 53710

(3) Accept custody of children committed to the public 53711
children services agency by a court exercising juvenile 53712

jurisdiction; 53713

(4) Provide such care as the public children services agency 53714
considers to be in the best interests of any child adjudicated to 53715
be an abused, neglected, or dependent child the agency finds to be 53716
in need of public care or service; 53717

(5) Provide social services to any unmarried girl adjudicated 53718
to be an abused, neglected, or dependent child who is pregnant 53719
with or has been delivered of a child; 53720

(6) Make available to the bureau for children with medical 53721
handicaps of the department of health at its request any 53722
information concerning a crippled child found to be in need of 53723
treatment under sections 3701.021 to 3701.028 of the Revised Code 53724
who is receiving services from the public children services 53725
agency; 53726

(7) Provide temporary emergency care for any child considered 53727
by the public children services agency to be in need of such care, 53728
without agreement or commitment; 53729

(8) Find certified foster homes, within or outside the 53730
county, for the care of children, including handicapped children 53731
from other counties attending special schools in the county; 53732

(9) Subject to the approval of the board of county 53733
commissioners and the state department of job and family services, 53734
establish and operate a training school or enter into an agreement 53735
with any municipal corporation or other political subdivision of 53736
the county respecting the operation, acquisition, or maintenance 53737
of any children's home, training school, or other institution for 53738
the care of children maintained by such municipal corporation or 53739
political subdivision; 53740

(10) Acquire and operate a county children's home, establish, 53741
maintain, and operate a receiving home for the temporary care of 53742

children, or procure certified foster homes for this purpose; 53743

(11) Enter into an agreement with the trustees of any 53744
district children's home, respecting the operation of the district 53745
children's home in cooperation with the other county boards in the 53746
district; 53747

(12) Cooperate with, make its services available to, and act 53748
as the agent of persons, courts, the department of job and family 53749
services, the department of health, and other organizations within 53750
and outside the state, in matters relating to the welfare of 53751
children, except that the public children services agency shall 53752
not be required to provide supervision of or other services 53753
related to the exercise of parenting time rights granted pursuant 53754
to section 3109.051 or 3109.12 of the Revised Code or 53755
companionship or visitation rights granted pursuant to section 53756
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 53757
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 53758
a common pleas court, pursuant to division (E)(6) of section 53759
3113.31 of the Revised Code, requires the provision of supervision 53760
or other services related to the exercise of the parenting time 53761
rights or companionship or visitation rights; 53762

(13) Make investigations at the request of any superintendent 53763
of schools in the county or the principal of any school concerning 53764
the application of any child adjudicated to be an abused, 53765
neglected, or dependent child for release from school, where such 53766
service is not provided through a school attendance department; 53767

(14) Administer funds provided under Title IV-E of the 53768
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 53769
amended, in accordance with rules adopted under section 5101.141 53770
of the Revised Code; 53771

(15) In addition to administering Title IV-E adoption 53772
assistance funds, enter into agreements to make adoption 53773

assistance payments under section 5153.163 of the Revised Code; 53774

(16) Implement a system of risk assessment, in accordance 53775
with rules adopted by the director of job and family services, to 53776
assist the public children services agency in determining the risk 53777
of abuse or neglect to a child; 53778

(17) Enter into a plan of cooperation with the board of 53779
county commissioners under section 307.983 of the Revised Code and 53780
comply with each fiscal agreement the board enters into under 53781
section 307.98 of the Revised Code that include family services 53782
duties of public children services agencies and contracts the 53783
board enters into under sections 307.981 and 307.982 of the 53784
Revised Code that affect the public children services agency; 53785

(18) Make reasonable efforts to prevent the removal of an 53786
alleged or adjudicated abused, neglected, or dependent child from 53787
the child's home, eliminate the continued removal of the child 53788
from the child's home, or make it possible for the child to return 53789
home safely, except that reasonable efforts of that nature are not 53790
required when a court has made a determination under division 53791
(A)(2) of section 2151.419 of the Revised Code; 53792

(19) Make reasonable efforts to place the child in a timely 53793
manner in accordance with the permanency plan approved under 53794
division (E) of section 2151.417 of the Revised Code and to 53795
complete whatever steps are necessary to finalize the permanent 53796
placement of the child; 53797

(20) Administer a Title IV-A program identified under 53798
division (A)(3)(c) or ~~(d)~~(e) of section 5101.80 of the Revised 53799
Code that the department of job and family services provides for 53800
the public children services agency to administer under the 53801
department's supervision pursuant to section 5101.801 of the 53802
Revised Code; 53803

(21) Administer the kinship caregiver subsidy program created 53804

<u>under section 5101.802 of the Revised Code under the supervision</u>	53805
<u>of the director of job and family services;</u>	53806
<u>(22)</u> Provide independent living services pursuant to sections	53807
2151.81 to 2151.84 of the Revised Code.	53808
(B) The public children services agency shall use the system	53809
implemented pursuant to division (B)(16) of this section in	53810
connection with an investigation undertaken pursuant to division	53811
(F)(1) of section 2151.421 of the Revised Code and may use the	53812
system at any other time the agency is involved with any child	53813
when the agency determines that risk assessment is necessary.	53814
(C) Except as provided in section 2151.422 of the Revised	53815
Code, in accordance with rules of the director of job and family	53816
services, and on behalf of children in the county whom the public	53817
children services agency considers to be in need of public care or	53818
protective services, the public children services agency may do	53819
the following:	53820
(1) Provide or find, with other child serving systems,	53821
specialized foster care for the care of children in a specialized	53822
foster home, as defined in section 5103.02 of the Revised Code,	53823
certified under section 5103.03 of the Revised Code;	53824
(2)(a) Except as limited by divisions (C)(2)(b) and (c) of	53825
this section, contract with the following for the purpose of	53826
assisting the agency with its duties:	53827
(i) County departments of job and family services;	53828
(ii) Boards of alcohol, drug addiction, and mental health	53829
services;	53830
(iii) County boards of mental retardation and developmental	53831
disabilities;	53832
(iv) Regional councils of political subdivisions established	53833
under Chapter 167. of the Revised Code;	53834

(v) Private and government providers of services;	53835
(vi) Managed care organizations and prepaid health plans.	53836
(b) A public children services agency contract under division	53837
(C)(2)(a) of this section regarding the agency's duties under	53838
section 2151.421 of the Revised Code may not provide for the	53839
entity under contract with the agency to perform any service not	53840
authorized by the department's rules.	53841
(c) Only a county children services board appointed under	53842
section 5153.03 of the Revised Code that is a public children	53843
services agency may contract under division (C)(2)(a) of this	53844
section. If an entity specified in division (B) or (C) of section	53845
5153.02 of the Revised Code is the public children services agency	53846
for a county, the board of county commissioners may enter into	53847
contracts pursuant to section 307.982 of the Revised Code	53848
regarding the agency's duties.	53849
Sec. 5502.01. (A) The department of public safety shall	53850
administer and enforce the laws relating to the registration,	53851
licensing, sale, and operation of motor vehicles and the laws	53852
pertaining to the licensing of drivers of motor vehicles.	53853
The department shall compile, analyze, and publish statistics	53854
relative to motor vehicle accidents and the causes of them,	53855
prepare and conduct educational programs for the purpose of	53856
promoting safety in the operation of motor vehicles on the	53857
highways, and conduct research and studies for the purpose of	53858
promoting safety on the highways of this state.	53859
(B) The department shall administer the laws and rules	53860
relative to trauma and emergency medical services specified in	53861
Chapter 4765. of the Revised Code.	53862
(C) The department shall administer and enforce the laws	53863
contained in Chapters 4301. and 4303. of the Revised Code and	53864

enforce the rules and orders of the liquor control commission 53865
pertaining to retail liquor permit holders. 53866

(D) The department shall administer the laws governing the 53867
state emergency management agency and shall enforce all additional 53868
duties and responsibilities as prescribed in the Revised Code 53869
related to emergency management services. 53870

(E) The department shall conduct investigations pursuant to 53871
Chapter 5101. of the Revised Code in support of the duty of the 53872
department of job and family services to administer food stamp 53873
programs throughout this state. The department of public safety 53874
shall conduct investigations necessary to protect the state's 53875
property rights and interests in the food stamp program. 53876

(F) The department of public safety shall enforce compliance 53877
with orders and rules of the public utilities commission and 53878
applicable laws in accordance with Chapters 4919., 4921., and 53879
4923. of the Revised Code regarding commercial motor vehicle 53880
transportation safety, economic, and hazardous materials 53881
requirements. 53882

(G) Notwithstanding Chapter 4117. of the Revised Code, the 53883
department of public safety may establish requirements for its 53884
enforcement personnel, including its enforcement agents described 53885
in section 5502.14 of the Revised Code, that include standards of 53886
conduct, work rules and procedures, and criteria for eligibility 53887
as law enforcement personnel. 53888

(H) The department shall administer, maintain, and operate 53889
the Ohio criminal justice network. The Ohio criminal justice 53890
network shall be a computer network that supports state and local 53891
criminal justice activities. The network shall be an electronic 53892
repository for various data, which may include arrest warrants, 53893
notices of persons wanted by law enforcement agencies, criminal 53894
records, prison inmate records, stolen vehicle records, vehicle 53895

operator's licenses, and vehicle registrations and titles. 53896

(I) The department shall coordinate all homeland security 53897
activities of all state agencies and shall be a liaison between 53898
state agencies and local entities for those activities and related 53899
purposes. 53900

(J) Beginning July 1, 2004, the department shall administer 53901
and enforce the laws relative to private investigators and 53902
security service providers specified in Chapter 4749. of the 53903
Revised Code. 53904

(K) The department shall administer criminal justice services 53905
in accordance with sections 5502.61 to 5502.66 of the Revised 53906
Code. 53907

Sec. 5502.03. (A) There is hereby created in the department 53908
of public safety a division of homeland security. It is the intent 53909
of the general assembly that the creation of the division of 53910
homeland security of the department of public safety by this 53911
amendment does not result in an increase of funding appropriated 53912
to the department. 53913

(B)(1) The division shall coordinate all homeland security 53914
activities of all state agencies and shall be the liaison between 53915
state agencies and local entities for the purposes of 53916
communicating homeland security funding and policy initiatives. 53917

(2) The division and the department shall distribute any 53918
homeland security funds on a county basis and shall not distribute 53919
those funds on a regional basis. 53920

(C) The director of public safety shall appoint an executive 53921
director, who shall be head of the division of homeland security 53922
and who regularly shall advise the governor and the director on 53923
matters pertaining to homeland security. The executive director 53924
shall serve at the pleasure of the director of public safety. To 53925

carry out the duties assigned under this section, the executive 53926
director, subject to the direction and control of the director of 53927
public safety, may appoint and maintain necessary staff and may 53928
enter into any necessary agreements. 53929

(D) Except as otherwise provided by law, nothing in this 53930
section shall be construed to give the director of public safety 53931
or the executive director of the division of homeland security 53932
authority over the incident management structure or 53933
responsibilities of local emergency response personnel. 53934

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 53935
~~181.56~~ 5502.66 of the Revised Code: 53936

(A) "Federal criminal justice acts" means any federal law 53937
that authorizes financial assistance and other forms of assistance 53938
to be given by the federal government to the states to be used for 53939
the improvement of the criminal and juvenile justice systems of 53940
the states. 53941

(B)(1) "Criminal justice system" includes all of the 53942
functions of the following: 53943

(a) The state highway patrol, county sheriff offices, 53944
municipal and township police departments, and all other law 53945
enforcement agencies; 53946

(b) The courts of appeals, courts of common pleas, municipal 53947
courts, county courts, and mayor's courts, when dealing with 53948
criminal cases; 53949

(c) The prosecuting attorneys, city directors of law, village 53950
solicitors, and other prosecuting authorities when prosecuting or 53951
otherwise handling criminal cases and the county and joint county 53952
public defenders and other public defender agencies or offices; 53953

(d) The department of rehabilitation and correction, 53954
probation departments, county and municipal jails and workhouses, 53955

and any other department, agency, or facility that is concerned 53956
with the rehabilitation or correction of criminal offenders; 53957

(e) Any public or private agency whose purposes include the 53958
prevention of crime or the diversion, adjudication, detention, or 53959
rehabilitation of criminal offenders; 53960

(f) Any public or private agency, the purposes of which 53961
include assistance to crime victims or witnesses. 53962

(2) The inclusion of any public or private agency, the 53963
purposes of which include assistance to crime victims or 53964
witnesses, as part of the criminal justice system pursuant to 53965
division (B)(1) of this section does not limit, and shall not be 53966
construed as limiting, the discretion or authority of the attorney 53967
general with respect to crime victim assistance and criminal 53968
justice programs. 53969

(C) "Juvenile justice system" includes all of the functions 53970
of the juvenile courts, the department of youth services, any 53971
public or private agency whose purposes include the prevention of 53972
delinquency or the diversion, adjudication, detention, or 53973
rehabilitation of delinquent children, and any of the functions of 53974
the criminal justice system that are applicable to children. 53975

(D) "Comprehensive plan" means a document that coordinates, 53976
evaluates, and otherwise assists, on an annual or multi-year 53977
basis, any of the functions of the criminal and juvenile justice 53978
systems of the state or a specified area of the state, that 53979
conforms to the priorities of the state with respect to criminal 53980
and juvenile justice systems, and that conforms with the 53981
requirements of all federal criminal justice acts. These functions 53982
may include, but are not limited to, any of the following: 53983

(1) Crime and delinquency prevention; 53984

(2) Identification, detection, apprehension, and detention of 53985

persons charged with criminal offenses or delinquent acts;	53986
(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;	53987 53988 53989 53990
(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;	53991 53992
(5) Custodial treatment of criminal offenders, delinquent children, or both;	53993 53994
(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.	53995 53996
(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 181.54 <u>5502.64</u> of the Revised Code.	53997 53998 53999
(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 181.56 <u>5502.66</u> of the Revised Code.	54000 54001 54002
(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 181.56 <u>5502.66</u> of the Revised Code.	54003 54004 54005
(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.	54006 54007 54008 54009 54010 54011
(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section 181.56 <u>5502.66</u> of the Revised Code.	54012 54013 54014

~~Sec. 181.52~~ 5502.62. (A) There is hereby created an ~~office~~ in 54015
the department of public safety a division of criminal justice 54016
services. The ~~governor~~ director of public safety, with the 54017
concurrence of the governor, shall appoint a an executive director 54018
of the ~~office,~~ and the ~~director may appoint,~~ within the ~~office,~~ 54019
any ~~professional and technical personnel and other employees that~~ 54020
~~are necessary to enable the office to comply with sections 181.51~~ 54021
~~to 181.56 of the Revised Code~~ division of criminal justice 54022
services. The executive director shall be the head of the 54023
division. The executive director shall serve at the pleasure of 54024
the director of public safety. To carry out the duties assigned 54025
under this section and to comply with sections 5502.63 to 5502.66 54026
of the Revised Code, the executive director, subject to the 54027
direction and control of the director of public safety, may 54028
appoint and maintain any necessary staff and may enter into any 54029
necessary contracts and other agreements. The executive director 54030
and the assistant executive director of the ~~office~~ division, and 54031
all professional and technical personnel employed within the 54032
~~office~~ division who are not public employees as defined in section 54033
4117.01 of the Revised Code, shall be in the unclassified civil 54034
service, and all other persons employed within the office shall be 54035
in the classified civil service. ~~The director may enter into any~~ 54036
~~contracts, except contracts governed by Chapter 4117. of the~~ 54037
~~Revised Code, that are necessary for the operation of the office.~~ 54038

(B) Subject to division (E) of this section and subject to 54039
divisions (D) to (F) of section 5120.09 of the Revised Code 54040
insofar as those divisions relate to federal criminal justice acts 54041
that the governor requires the department of rehabilitation and 54042
correction to administer, the ~~office~~ division of criminal justice 54043
services shall do all of the following: 54044

(1) Serve as the state criminal justice services agency and 54045

- perform criminal justice system planning in the state, including
any planning that is required by any federal law; 54046
54047
- (2) Collect, analyze, and correlate information and data
concerning the criminal justice system in the state; 54048
54049
- (3) Cooperate with and provide technical assistance to state
departments, administrative planning districts, metropolitan
county criminal justice services agencies, criminal justice
coordinating councils, agencies, offices, and departments of the
criminal justice system in the state, and other appropriate
organizations and persons; 54050
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- (4) Encourage and assist agencies, offices, and departments
of the criminal justice system in the state and other appropriate
organizations and persons to solve problems that relate to the
duties of the ~~office~~ division; 54056
54057
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54059
- (5) Administer within the state any federal criminal justice
acts that the governor requires it to administer; 54060
54061
- (6) Administer funds received under the "Family Violence
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A.
10401, as amended, with all powers necessary for the adequate
administration of those funds, including the authority to
establish a family violence prevention and services program. 54062
54063
54064
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54066
- (7) Implement the state comprehensive plans; 54067
- (8) Audit grant activities of agencies, offices,
organizations, and persons that are financed in whole or in part
by funds granted through the ~~office~~ division; 54068
54069
54070
- (9) Monitor or evaluate the performance of criminal justice
system projects and programs in the state that are financed in
whole or in part by funds granted through the ~~office~~ division; 54071
54072
54073
- (10) Apply for, allocate, disburse, and account for grants
that are made available pursuant to federal criminal justice acts, 54074
54075

or made available from other federal, state, or private sources, 54076
to improve the criminal justice system in the state. All money 54077
from such federal grants shall, if the terms under which the money 54078
is received require that the money be deposited into an 54079
interest-bearing fund or account, be deposited in the state 54080
treasury to the credit of the federal program purposes fund, which 54081
is hereby created. All investment earnings of the fund shall be 54082
credited to the fund. 54083

(11) Contract with federal, state, and local agencies, 54084
foundations, corporations, businesses, and persons when necessary 54085
to carry out the duties of the ~~office~~ division; 54086

(12) Oversee the activities of metropolitan county criminal 54087
justice services agencies, administrative planning districts, and 54088
criminal justice coordinating councils in the state; 54089

(13) Advise the director of public safety, general assembly, 54090
and governor on legislation and other significant matters that 54091
pertain to the improvement and reform of criminal and juvenile 54092
justice systems in the state; 54093

(14) Prepare and recommend legislation to the director of 54094
public safety, general assembly, and governor for the improvement 54095
of the criminal and juvenile justice systems in the state; 54096

(15) Assist, advise, and make any reports that are requested 54097
or required by the governor, director of public safety, attorney 54098
general, or general assembly; 54099

(16) ~~Adopt~~ Subject to the approval of the director of public 54100
safety, adopt rules pursuant to Chapter 119. of the Revised Code. 54101

(C) Upon the request of the director of public safety or 54102
governor, the ~~office~~ division of criminal justice services may do 54103
any of the following: 54104

(1) Collect, analyze, or correlate information and data 54105

concerning the juvenile justice system in the state; 54106

(2) Cooperate with and provide technical assistance to state 54107
departments, administrative planning districts, metropolitan 54108
county criminal justice service agencies, criminal justice 54109
coordinating councils, agency offices, and the departments of the 54110
juvenile justice system in the state and other appropriate 54111
organizations and persons; 54112

(3) Encourage and assist agencies, offices, and departments 54113
of the juvenile justice system in the state and other appropriate 54114
organizations and persons to solve problems that relate to the 54115
duties of the ~~office~~ division. 54116

(D) Divisions (B) and (C) of this section do not limit the 54117
discretion or authority of the attorney general with respect to 54118
crime victim assistance and criminal justice programs. 54119

(E) Nothing in this section is intended to diminish or alter 54120
the status of the office of the attorney general as a criminal 54121
justice services agency. 54122

Sec. ~~181.251~~ 5502.63. The ~~office~~ division of criminal justice 54123
services in the department of public safety shall prepare a poster 54124
and a brochure that describe safe firearms practices. The poster 54125
and brochure shall contain typeface that is at least one-quarter 54126
inch tall. The ~~office~~ division shall furnish copies of the poster 54127
and brochure free of charge to each federally licensed firearms 54128
dealer in this state. 54129

As used in this section, "federally licensed firearms dealer" 54130
means an importer, manufacturer, or dealer having a license to 54131
deal in destructive devices or their ammunition, issued and in 54132
effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 54133
1213, 18 U.S.C. 923 et seq., and any amendments or additions to 54134
that act or reenactments of that act. 54135

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement 54136
with the largest city within the county to establish a 54137
metropolitan county criminal justice services agency, if the 54138
population of the county exceeds five hundred thousand or the 54139
population of the city exceeds two hundred fifty thousand. 54140

(B) A metropolitan county criminal justice services agency 54141
shall do all of the following: 54142

(1) Accomplish criminal and juvenile justice systems planning 54143
within its services area; 54144

(2) Collect, analyze, and correlate information and data 54145
concerning the criminal and juvenile justice systems within its 54146
services area; 54147

(3) Cooperate with and provide technical assistance to all 54148
criminal and juvenile justice agencies and systems and other 54149
appropriate organizations and persons within its services area; 54150

(4) Encourage and assist agencies of the criminal and 54151
juvenile justice systems and other appropriate organizations and 54152
persons to solve problems that relate to its duties; 54153

(5) Administer within its services area any federal criminal 54154
justice acts or juvenile justice acts that the ~~office~~ division of 54155
criminal justice services pursuant to section 5139.11 of the 54156
Revised Code or the department of youth services administers 54157
within the state; 54158

(6) Implement the comprehensive plans for its services area; 54159

(7) Monitor or evaluate, within its services area, the 54160
performance of the criminal and juvenile justice systems projects 54161
and programs that are financed in whole or in part by funds 54162
granted through it; 54163

(8) Apply for, allocate, and disburse grants that are made 54164

available pursuant to any federal criminal justice acts, or 54165
pursuant to any other federal, state, or private sources for the 54166
purpose of improving the criminal and juvenile justice systems; 54167

(9) Contract with federal, state, and local agencies, 54168
foundations, corporations, and other businesses or persons to 54169
carry out the duties of the agency. 54170

Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for 54171
criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of 54172
the Revised Code, the ~~office~~ division of criminal justice services 54173
shall provide funds to metropolitan county criminal justice 54174
services agencies for the purpose of developing, coordinating, 54175
evaluating, and implementing comprehensive plans within their 54176
respective counties. The ~~office~~ division of criminal justice 54177
services shall provide funds to an agency only if it complies with 54178
the conditions of division (B) of this section. 54179

(2) When funds are available for juvenile justice purposes 54180
pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 54181
department of youth services shall provide funds to metropolitan 54182
county criminal justice services agencies for the purpose of 54183
developing, coordinating, evaluating, and implementing 54184
comprehensive plans within their respective counties. The 54185
department shall provide funds to an agency only if it complies 54186
with the conditions of division (B) of this section. 54187

(B) A metropolitan county criminal justice services agency 54188
shall do all of the following: 54189

(1) Submit, in a form that is acceptable to the ~~office~~ 54190
division of criminal justice services or the department of youth 54191
services pursuant to section 5139.01 of the Revised Code, a 54192
comprehensive plan for the county; 54193

(2) Establish a metropolitan county criminal justice services 54194

supervisory board whose members shall include a majority of the 54195
local elected officials in the county and representatives from law 54196
enforcement agencies, courts, prosecuting authorities, public 54197
defender agencies, rehabilitation and correction agencies, 54198
community organizations, juvenile justice services agencies, 54199
professionals, and private citizens in the county, and that shall 54200
have the authority set forth in division (C) of this section; 54201

(3) Organize in the manner provided in sections 167.01 to 54202
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 54203
unless the board created pursuant to division (B)(2) of this 54204
section organizes pursuant to these sections. 54205

(C) A metropolitan county criminal justice services 54206
supervisory board shall do all of the following: 54207

(1) Exercise leadership in improving the quality of the 54208
criminal and juvenile justice systems in the county; 54209

(2) Review, approve, and maintain general oversight of the 54210
comprehensive plans for the county and the implementation of the 54211
plans; 54212

(3) Review and comment on the overall needs and 54213
accomplishments of the criminal and juvenile justice systems in 54214
the county; 54215

(4) Establish, as required to comply with this division, task 54216
forces, ad hoc committees, and other committees, whose members 54217
shall be appointed by the chairperson of the board; 54218

(5) Establish any rules that the board considers necessary 54219
and that are consistent with the federal criminal justice acts and 54220
section ~~181.52~~ 5502.62 of the Revised Code. 54221

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 54222
county criminal justice services agency does not exist, the ~~office~~ 54223
division of criminal justice services shall discharge the ~~office's~~ 54224

division's duties that the ~~governor~~ director of public safety 54225
requires it to administer by establishing administrative planning 54226
districts for criminal justice programs. An administrative 54227
planning district shall contain a group of contiguous counties in 54228
which no county has a metropolitan county criminal justice 54229
services agency. 54230

(B) In counties in which a metropolitan county criminal 54231
justice services agency does not exist, the department of youth 54232
services shall discharge pursuant to section 5139.11 of the 54233
Revised Code the department's duty by establishing administrative 54234
planning districts for juvenile justice programs. 54235

(C) All administrative planning districts shall contain a 54236
group of contiguous counties in which no county has a metropolitan 54237
county criminal justice services agency. 54238

(D) Any county or any combination of contiguous counties 54239
within an administrative planning district may form a criminal 54240
justice coordinating council or a juvenile justice coordinating 54241
council for its respective programs, if the county or the group of 54242
counties has a total population in excess of two hundred fifty 54243
thousand. The council shall comply with the conditions set forth 54244
in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised 54245
Code, and exercise within its jurisdiction the powers and duties 54246
set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised 54247
Code. 54248

Sec. 5517.02. (A) Before undertaking the construction, 54249
reconstruction by widening or resurfacing, or improvement of a 54250
state highway, or a bridge or culvert thereon, or the installation 54251
of a traffic control signal on a state highway, the director of 54252
transportation shall make an estimate of the cost of the work 54253
using the force account project assessment form developed by the 54254
auditor of state under section 117.16 of the Revised Code. In 54255

constructing, or reconstructing by widening or resurfacing, 54256
improving, maintaining, and repairing state highways, and the 54257
bridges and culverts thereon, and in installing, maintaining, and 54258
repairing traffic control signals on state highways, the director, 54259
except as provided in division (B) of this section, shall proceed 54260
by contract let to the lowest competent and responsible bidder, 54261
after advertisement as provided in section 5525.01 of the Revised 54262
Code. 54263

(B)(1) Where the work contemplated is the construction of a 54264
bridge or culvert, or the installation of a traffic control 54265
signal, estimated to cost not more than fifty thousand dollars or 54266
the adjusted amount certified under section 117.162 of the Revised 54267
Code, the director may proceed by employing labor, purchasing 54268
materials, and furnishing equipment. 54269

(2) The director may also proceed with maintenance or repair 54270
work by employing labor, purchasing materials, and furnishing 54271
equipment, provided the total estimated cost of the completed 54272
operation, or series of connected operations, does not exceed 54273
twenty-five thousand dollars or the adjusted amount certified 54274
under section 117.162 of the Revised Code per mile of highway, 54275
exclusive of structures and traffic control signals, or fifty 54276
thousand dollars or the adjusted amount certified under section 54277
117.162 of the Revised Code for any single structure or traffic 54278
control signal. 54279

(3) The director may proceed by furnishing equipment, 54280
purchasing materials, and employing labor in the erection of 54281
temporary bridges or the making of temporary repairs to a highway 54282
or bridge rendered necessary by flood, landslide, or other 54283
extraordinary emergency. If the director determines inability to 54284
complete such emergency work by force account, the director may 54285
contract for any part of the work, with or without advertising for 54286
bids, as the director considers for the best interest of the 54287

department of transportation.	54288
Sec. 5540.01. As used in this chapter:	54289
(A) "Transportation improvement district" or "district" means	54290
a transportation improvement district designated pursuant to	54291
section 5540.02 of the Revised Code.	54292
(B) "Governmental agency" means a department, division, or	54293
other unit of state government; a county, township, or municipal	54294
corporation or other political subdivision; a regional transit	54295
authority or regional transit commission created pursuant to	54296
Chapter 306. of the Revised Code; a port authority created	54297
pursuant to Chapter 4582. of the Revised Code; and the United	54298
States or any agency thereof.	54299
(C) "Project" means a street, highway, or other	54300
transportation project constructed or improved under this chapter	54301
and includes all bridges, tunnels, overpasses, underpasses,	54302
interchanges, approaches, those portions of connecting streets or	54303
highways that serve interchanges and are determined by the	54304
district to be necessary for the safe merging of traffic between	54305
the project and those streets or highways, service facilities, and	54306
administration, storage, and other buildings, property, and	54307
facilities, that the district considers necessary for the	54308
operation of the project, together with all property and rights	54309
that must be acquired by the district for the construction,	54310
maintenance, or operation of the project.	54311
(D) "Cost," as applied to the construction of a project,	54312
includes the cost of construction, including bridges over or under	54313
existing highways and railroads, acquisition of all property	54314
acquired by the district for such construction, demolishing or	54315
removing any buildings or structures on land so acquired,	54316
including the cost of acquiring any lands to which such buildings	54317

or structures may be moved, site clearance, improvement, and 54318
preparation, diverting streets or highways, interchanges with 54319
streets or highways, access roads to private property, including 54320
the cost of land or easements therefor, all machinery, 54321
furnishings, and equipment, communications facilities, financing 54322
expenses, interest prior to and during construction and for one 54323
year after completion of construction, traffic estimates, 54324
indemnity and surety bonds and premiums on insurance, and 54325
guarantees, engineering, feasibility studies, and legal expenses, 54326
plans, specifications, surveys, estimates of cost and revenues, 54327
other expenses necessary or incidental to determining the 54328
feasibility or practicability of constructing a project, and such 54329
other expense as may be necessary or incident to the construction 54330
of the project and the financing of such construction. Any 54331
obligation or expense incurred by any governmental agency or 54332
person for surveys, borings, preparation of plans and 54333
specifications, and other engineering services, or any other cost 54334
described above, in connection with the construction of a project 54335
may be regarded as part of the cost of the project and reimbursed 54336
from revenues, taxes, or the proceeds of bonds as authorized by 54337
this chapter. 54338

(E) "Owner" includes any person having any title or interest 54339
in any property authorized to be acquired by a district under this 54340
chapter. 54341

(F) "Revenues" means all moneys received by a district with 54342
respect to the lease, sublease, or sale, including installment 54343
sale, conditional sale, or sale under a lease-purchase agreement, 54344
of a project, all moneys received by a district under an agreement 54345
pursuant to section 5540.032 of the Revised Code, any gift or 54346
grant received with respect to a project, tolls, special 54347
assessments levied by the district, proceeds of bonds to the 54348
extent the use thereof for payment of principal or of premium, if 54349

any, or interest on the bonds is authorized by the district, 54350
proceeds from any insurance, condemnation, or guaranty pertaining 54351
to a project or property mortgaged to secure bonds or pertaining 54352
to the financing of a project, and income and profit from the 54353
investment of the proceeds of bonds or of any revenues. 54354

(G) "Street or highway" has the same meaning as in section 54355
4511.01 of the Revised Code. 54356

(H) "Financing expenses" means all costs and expenses 54357
relating to the authorization, issuance, sale, delivery, 54358
authentication, deposit, custody, clearing, registration, 54359
transfer, exchange, fractionalization, replacement, payment, and 54360
servicing of bonds including, without limitation, costs and 54361
expenses for or relating to publication and printing, postage, 54362
delivery, preliminary and final official statements, offering 54363
circulars, and informational statements, travel and 54364
transportation, underwriters, placement agents, investment 54365
bankers, paying agents, registrars, authenticating agents, 54366
remarketing agents, custodians, clearing agencies or corporations, 54367
securities depositories, financial advisory services, 54368
certifications, audits, federal or state regulatory agencies, 54369
accounting and computation services, legal services and obtaining 54370
approving legal opinions and other legal opinions, credit ratings, 54371
redemption premiums, and credit enhancement facilities. 54372

(I) "Bond proceedings" means the resolutions, trust 54373
agreements, certifications, notices, sale proceedings, leases, 54374
lease-purchase agreements, assignments, credit enhancement 54375
facility agreements, and other agreements, instruments, and 54376
documents, as amended and supplemented, or any one or more of 54377
combination thereof, authorizing, or authorizing or providing for 54378
the terms and conditions applicable to, or providing for the 54379
security or sale or award or liquidity of, bonds, and includes the 54380
provisions set forth or incorporated in those bonds and bond 54381

proceedings. 54382

(J) "Bond service charges" means principal, including any 54383
mandatory sinking fund or mandatory redemption requirements for 54384
retirement of bonds, and interest and any redemption premium 54385
payable on bonds, as those payments come due and are payable to 54386
the bondholder or to a person making payment under a credit 54387
enhancement facility of those bond service charges to a 54388
bondholder. 54389

(K) "Bond service fund" means the applicable fund created by 54390
the bond proceedings for and pledged to the payment of bond 54391
service charges on bonds provided for by those proceedings, 54392
including all moneys and investments, and earnings from 54393
investments, credited and to be credited to that fund as provided 54394
in the bond proceedings. 54395

(L) "Bonds" means bonds, notes, including notes anticipating 54396
bonds or other notes, commercial paper, certificates of 54397
participation, or other evidences of obligation, including any 54398
interest coupons pertaining thereto, issued pursuant to this 54399
chapter. 54400

(M) "Net revenues" means revenues lawfully available to pay 54401
both current operating expenses of a district and bond service 54402
charges in any fiscal year or other specified period, less current 54403
operating expenses of the district and any amount necessary to 54404
maintain a working capital reserve for that period. 54405

(N) "Pledged revenues" means net revenues, moneys and 54406
investments, and earnings on those investments, in the applicable 54407
bond service fund and any other special funds, and the proceeds of 54408
any bonds issued for the purpose of refunding prior bonds, all as 54409
lawfully available and by resolution of the district committed for 54410
application as pledged revenues to the payment of bond service 54411
charges on particular issues of bonds. 54412

(O) "Special funds" means the applicable bond service fund 54413
and any accounts and subaccounts in that fund, any other funds or 54414
accounts permitted by and established under, and identified as a 54415
special fund or special account in, the bond proceedings, 54416
including any special fund or account established for purposes of 54417
rebate or other requirements under federal income tax laws. 54418

(P) "Credit enhancement facilities" means letters of credit, 54419
lines of credit, standby, contingent, or firm securities purchase 54420
agreements, insurance, or surety arrangements, guarantees, and 54421
other arrangements that provide for direct or contingent payment 54422
of bond service charges, for security or additional security in 54423
the event of nonpayment or default in respect of bonds, or for 54424
making payment of bond service charges and at the option and on 54425
demand of bondholders or at the option of the district or upon 54426
certain conditions occurring under put or similar arrangements, or 54427
for otherwise supporting the credit or liquidity of the bonds, and 54428
includes credit, reimbursement, marketing, remarketing, indexing, 54429
carrying, interest rate hedge as defined in section 133.01 of the 54430
Revised Code, and subrogation agreements, and other agreements and 54431
arrangements for payment and reimbursement of the person providing 54432
the credit enhancement facility and the security for that payment 54433
and reimbursement. 54434

(Q) "Refund" means to fund and retire outstanding bonds, 54435
including advance refunding with or without payment or redemption 54436
prior to stated maturity. 54437

(R) "Property" includes interests in property. 54438

(S) "Administrative agent," "agent," "commercial paper," 54439
"floating rate interest structure," "indexing agent," "interest 54440
rate period," "put arrangement," and "remarketing agent" have the 54441
same meanings as in section 9.98 of the Revised Code. 54442

(T) "Outstanding" as applied to bonds means outstanding in 54443

accordance with the terms of the bonds and the applicable bond
proceedings. 54444
54445

(U) "Interstate system" has the same meaning as in section 54446
5516.01 of the Revised Code. 54447

Sec. 5540.032. A transportation improvement district and any 54448
governmental agency may enter into an agreement providing for the 54449
joint financing, construction, acquisition, or improvement of any 54450
project benefiting the parties thereto and providing for the joint 54451
management, maintenance, and repair thereof. Any such agreement 54452
shall be approved by resolution or ordinance passed by the 54453
legislative authority of each of the parties to such agreement, 54454
which resolution or ordinance shall authorize the execution 54455
thereof by a designated official or officials of each of such 54456
parties, and such agreement, when so approved and executed, shall 54457
be in full force and effect. 54458

Any party to such an agreement may issue and, notwithstanding 54459
any other provision of the Revised Code, a district may purchase 54460
directly from the party as an investment, securities to evidence 54461
the obligations of that party to the district pursuant to the 54462
agreement for its portion of the cost of the project pursuant to 54463
Chapter 133. or other applicable provisions of the Revised Code. 54464

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 54465
pledge of the faith and credit, of the state or of any political 54466
subdivision of the state. Bond service charges on outstanding 54467
bonds are payable solely from the pledged revenues pledged for 54468
their payment as authorized by this chapter and as provided in the 54469
bond proceedings. All bonds shall contain on their face a 54470
statement to that effect. 54471

(B) All expenses incurred in carrying out this chapter shall 54472
be payable solely from revenues provided under this chapter. ~~This~~ 54473

Except as provided in section 5540.032 of the Revised Code, this 54474
chapter does not authorize the board of trustees of a district to 54475
incur indebtedness or liability on behalf of or payable by the 54476
state or any political subdivision of the state. 54477

Sec. 5543.19. (A) The county engineer may, when authorized by 54478
the board of county commissioners and not required by this section 54479
or other law to use competitive bidding, employ such laborers and 54480
vehicles, use such county employees and property, lease such 54481
implements and tools, and purchase such materials as are necessary 54482
in the construction, reconstruction, improvement, maintenance, or 54483
repair of roads by force account. 54484

In determining whether construction or reconstruction, 54485
including widening and resurfacing, of roads may be undertaken by 54486
force account, the county engineer shall first cause to be made an 54487
estimate of the cost of such work using the force account project 54488
assessment form developed by the auditor of state under section 54489
117.16 of the Revised Code. When the total estimated cost of the 54490
work exceeds thirty thousand dollars per mile or the adjusted 54491
amount certified under section 117.162 of the Revised Code, the 54492
county commissioners shall invite and receive competitive bids for 54493
furnishing all the labor, materials, and equipment necessary to 54494
complete the work in accordance with sections 307.86 to 307.92 of 54495
the Revised Code. 54496

(B) The county engineer may, when authorized by the board of 54497
county commissioners and not required by this section or other law 54498
to use competitive bidding, employ such laborers and vehicles, use 54499
such county employees and property, lease such implements and 54500
tools, and purchase such materials as are necessary in the 54501
construction, reconstruction, improvement, maintenance, or repair 54502
of bridges and culverts by force account. 54503

In determining whether such construction, reconstruction, 54504

improvement, maintenance, or repair of bridges or culverts may be 54505
undertaken by force account, the county engineer shall first cause 54506
to be made an estimate of the cost of such work using the force 54507
account project assessment form. When the total estimated cost of 54508
the work exceeds one hundred thousand dollars or the adjusted 54509
amount certified under section 117.162 of the Revised Code, the 54510
board of county commissioners shall invite and receive competitive 54511
bids for furnishing all the labor, materials, and equipment 54512
necessary to complete the work, in accordance with sections 307.86 54513
to 307.92 of the Revised Code. The county engineer shall obtain 54514
the approval required by section 5543.02 of the Revised Code. 54515

(C) "Force account," as used in this section means that the 54516
county engineer will act as contractor, using labor employed by 54517
the engineer using material and equipment either owned by the 54518
county or leased or purchased in compliance with sections 307.86 54519
to 307.92 of the Revised Code and excludes subcontracting any part 54520
of such work unless done pursuant to sections 307.86 to 307.92 of 54521
the Revised Code. 54522

The term "competitive bids" as used in this section requires 54523
competition for the whole contract and in regard to its component 54524
parts, including labor and materials. Neither plans nor 54525
specifications shall be drawn to favor any manufacturer or bidder 54526
unless required by the public interest. 54527

Sec. 5549.01. The board of county commissioners may purchase 54528
such machinery, tools, or other equipment, including special 54529
wearing apparel, for the construction, improvement, maintenance, 54530
or repair of the highways, bridges, and culverts under its 54531
jurisdiction as it deems necessary. The board may also purchase, 54532
hire, or lease automobiles, motorcycles, or other conveyances and 54533
maintain them for the use of the county engineer and ~~his~~ the 54534
engineer's assistants when on official business. All such 54535

machinery, tools, and equipment, including special wearing 54536
apparel, and conveyances belonging to the county shall be under 54537
the care and custody of the engineer, and shall be plainly and 54538
conspicuously marked as the property of the county. 54539

The engineer ~~shall annually, on the fifteenth day of~~ 54540
~~November, make a written inventory of all such items, indicating~~ 54541
~~each article, stating the value thereof, and the estimated cost of~~ 54542
~~all necessary repairs thereto, and deliver such inventory to the~~ 54543
~~board, which shall cause it to be placed on file. At the same time~~ 54544
he shall file with the board ~~his~~ written recommendations as to 54545
what machinery, tools, and equipment, including special wearing 54546
apparel, and conveyances should be purchased for the use of the 54547
county during the ensuing year and the probable cost thereof. 54548

The board shall provide a suitable place for housing and 54549
storing machinery, tools, and equipment, including special wearing 54550
apparel, materials, and conveyances owned by the county, and may 54551
purchase the necessary material and construct, or enter into an 54552
agreement with a railroad company to construct, one switch or spur 54553
track from the right of way of such railroad company to land or 54554
storage house owned by the county. All expenditures authorized by 54555
this section shall be paid out of any available road funds of the 54556
county. 54557

Purchases, hiring, or leasing made by the board pursuant to 54558
this section shall be governed by sections 307.86 to 307.92, 54559
~~inclusive,~~ of the Revised Code. 54560

Sec. 5573.13. The proportion of the compensation, damages, 54561
and costs of any road improvement to be paid by the township shall 54562
be paid out of any road improvement fund available therefor. For 54563
the purpose of providing by taxation a fund for the payment of the 54564
township's proportion of the compensation, damages, and costs of 54565
constructing, reconstructing, resurfacing, or improving roads 54566

under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 54567
5573.15, ~~inclusive~~, and 5575.02 to 5575.09, ~~inclusive~~, of the 54568
Revised Code, and for the purpose of maintaining, repairing, or 54569
dragging any public road or part thereof under their jurisdiction, 54570
in the manner provided in sections 5571.02 to 5571.05, ~~inclusive~~, 54571
5571.08, 5571.12, ~~5571.13~~, and 5575.01 of the Revised Code, the 54572
board of trustees may levy, annually, a tax not exceeding three 54573
mills upon each dollar of the taxable property of said township. 54574
Such levy shall be in addition to all other levies authorized for 54575
township purposes, and subject only to the limitation on the 54576
combined maximum rate for all taxes now in force. The taxes so 54577
authorized shall be placed by the county auditor upon the tax 54578
duplicate, against the taxable property of the township, and 54579
collected by the county treasurer as other taxes. When collected, 54580
such taxes shall be paid to the township clerk of the township 54581
from which they are collected, and the money so received shall be 54582
under the control of the board for the purposes for which the 54583
taxes were levied. 54584

Sec. 5575.01. (A) In the maintenance and repair of roads, the 54585
board of township trustees may proceed either by contract or force 54586
account, but, unless the exemption specified in division (C) of 54587
this section applies, if the board wishes to proceed by force 54588
account, it first shall cause the county engineer to complete the 54589
force account assessment form developed by the auditor of state 54590
under section 117.16 of the Revised Code. Except as otherwise 54591
provided in sections 505.08 and 505.101 of the Revised Code, when 54592
the board proceeds by contract, the contract shall, if the amount 54593
involved exceeds forty-five thousand dollars or the adjusted 54594
amount certified under section 117.162 of the Revised Code, be let 54595
by the board to the lowest responsible bidder after advertisement 54596
for bids once, not later than two weeks, prior to the date fixed 54597
for the letting of the contract, in a newspaper published in the 54598

county and of general circulation within the township or, if no 54599
newspaper is published in the county, in a newspaper having 54600
general circulation in the township. If the amount involved is 54601
forty-five thousand dollars or the adjusted amount certified under 54602
section 117.162 of the Revised Code or less, a contract may be let 54603
without competitive bidding, or the work may be done by force 54604
account. Such a contract shall be performed under the supervision 54605
of a member of the board or the township road superintendent. 54606

(B) Before undertaking the construction or reconstruction of 54607
a township road, the board shall cause to be made by the county 54608
engineer an estimate of the cost of the work, which estimate shall 54609
include labor, material, freight, fuel, hauling, use of machinery 54610
and equipment, and all other items of cost. If the board finds it 54611
in the best interest of the public, it may, in lieu of 54612
constructing the road by contract, proceed to construct the road 54613
by force account. Except as otherwise provided under sections 54614
505.08 and 505.101 of the Revised Code, where the total estimate 54615
cost of the work exceeds fifteen thousand dollars or the adjusted 54616
amount certified under section 117.162 of the Revised Code per 54617
mile, the board shall invite and receive competitive bids for 54618
furnishing all the labor, materials, and equipment and doing the 54619
work, as provided in section 5575.02 of the Revised Code, and 54620
shall consider and reject them before ordering the work done by 54621
force account. When such bids are received, considered, and 54622
rejected, and the work is done by force account, the work shall be 54623
performed in compliance with the plans and specifications upon 54624
which the bids were based. 54625

(C) Force account assessment forms are not required under 54626
division (A) of this section for road maintenance or repair 54627
projects of less than fifteen thousand dollars or the adjusted 54628
amount certified under section 117.162 of the Revised Code, or 54629
under division (B) of this section for road construction or 54630

reconstruction projects of less than five thousand dollars or the 54631
adjusted amount certified under section 117.162 of the Revised 54632
Code per mile. 54633

(D) All force account work under this section shall be done 54634
under the direction of a member of the board or the township road 54635
superintendent. 54636

Sec. 5701.03. As used in Title LVII of the Revised Code: 54637

(A) "Personal property" includes every tangible thing that is 54638
the subject of ownership, whether animate or inanimate, including 54639
a business fixture, and that does not constitute real property as 54640
defined in section 5701.02 of the Revised Code. "Personal 54641
property" also includes every share, portion, right, or interest, 54642
either legal or equitable, in and to every ship, vessel, or boat, 54643
used or designed to be used in business either exclusively or 54644
partially in navigating any of the waters within or bordering on 54645
this state, whether such ship, vessel, or boat is within the 54646
jurisdiction of this state or elsewhere. "Personal property" does 54647
not include money as defined in section 5701.04 of the Revised 54648
Code, motor vehicles registered by the owner thereof, electricity, 54649
or, for purposes of any tax levied on personal property before tax 54650
year 2006, patterns, jigs, dies, or drawings that are held for use 54651
and not for sale in the ordinary course of business, except to the 54652
extent that the value of the electricity, patterns, jigs, dies, or 54653
drawings is included in the valuation of inventory produced for 54654
sale. 54655

(B) "Business fixture" means an item of tangible personal 54656
property that has become permanently attached or affixed to the 54657
land or to a building, structure, or improvement, and that 54658
primarily benefits the business conducted by the occupant on the 54659
premises and not the realty. "Business fixture" includes, but is 54660
not limited to, machinery, equipment, signs, storage bins and 54661

tanks, whether above or below ground, and broadcasting, 54662
transportation, transmission, and distribution systems, whether 54663
above or below ground. "Business fixture" also means those 54664
portions of buildings, structures, and improvements that are 54665
specially designed, constructed, and used for the business 54666
conducted in the building, structure, or improvement, including, 54667
but not limited to, foundations and supports for machinery and 54668
equipment. "Business fixture" does not include fixtures that are 54669
common to buildings, including, but not limited to, heating, 54670
ventilation, and air conditioning systems primarily used to 54671
control the environment for people or animals, tanks, towers, and 54672
lines for potable water or water for fire control, electrical and 54673
communication lines, and other fixtures that primarily benefit the 54674
realty and not the business conducted by the occupant on the 54675
premises. 54676

Sec. 5703.052. (A) There is hereby created in the state 54677
treasury the tax refund fund, from which refunds shall be paid for 54678
taxes illegally or erroneously assessed or collected, or for any 54679
other reason overpaid, that are levied by Chapter 4301., 4305., 54680
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 54681
5749., or ~~5753.~~ 5751., and sections 3737.71, 3905.35, 3905.36, 54682
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 54683
of the Revised Code. Refunds for fees illegally or erroneously 54684
assessed or collected, or for any other reason overpaid, that are 54685
levied by sections 3734.90 to 3734.9014 of the Revised Code also 54686
shall be paid from the fund. However, refunds for taxes levied 54687
under section 5739.101 of the Revised Code shall not be paid from 54688
the tax refund fund, but shall be paid as provided in section 54689
5739.104 of the Revised Code. 54690

(B)(1) Upon certification by the tax commissioner to the 54691
treasurer of state of a tax refund or fee refund, or by the 54692

superintendent of insurance of a domestic or foreign insurance tax 54693
refund, the treasurer of state shall place the amount certified to 54694
the credit of the fund. The certified amount transferred shall be 54695
derived from current receipts of the same tax or the fee from 54696
which the refund arose. If current receipts from the tax or fee 54697
from which the refund arose are inadequate to make the transfer of 54698
the amount so certified, the treasurer of state shall transfer 54699
such certified amount from current receipts of the sales tax 54700
levied by section 5739.02 of the Revised Code. 54701

(2) When the treasurer of state provides for the payment of a 54702
refund of a tax or fee from the current receipts of the sales tax, 54703
and the refund is for a tax or fee that is not levied by the 54704
state, the tax commissioner shall recover the amount of that 54705
refund from the next distribution of that tax or fee that 54706
otherwise would be made to the taxing jurisdiction. If the amount 54707
to be recovered would exceed twenty-five per cent of the next 54708
distribution of that tax or fee, the commissioner may spread the 54709
recovery over more than one future distribution, taking into 54710
account the amount to be recovered and the amount of the 54711
anticipated future distributions. In no event may the commissioner 54712
spread the recovery over a period to exceed twenty-four months. 54713

Sec. 5703.053. As used in this section, "postal service" 54714
means the United States postal service. 54715

An application to the tax commissioner for a tax refund under 54716
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 54717
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 54718
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 54719
or division (B) of section 5703.05 of the Revised Code, or a fee 54720
refunded under section 3734.905 of the Revised Code, that is 54721
received after the last day for filing under such section shall be 54722
considered to have been filed in a timely manner if: 54723

(A) The application is delivered by the postal service and 54724
the earliest postal service postmark on the cover in which the 54725
application is enclosed is not later than the last day for filing 54726
the application; 54727

(B) The application is delivered by the postal service, the 54728
only postmark on the cover in which the application is enclosed 54729
was affixed by a private postal meter, the date of that postmark 54730
is not later than the last day for filing the application, and the 54731
application is received within seven days of such last day; or 54732

(C) The application is delivered by the postal service, no 54733
postmark date was affixed to the cover in which the application is 54734
enclosed or the date of the postmark so affixed is not legible, 54735
and the application is received within seven days of the last day 54736
for making the application. 54737

Sec. 5703.057. (A) For the efficient administration of the 54738
taxes and fees administered by the tax commissioner, the 54739
commissioner may require that any person filing a tax document 54740
with the department of taxation provide identifying information, 54741
which may include the person's social security number, federal 54742
employer identification number, or other identification number 54743
requested by the commissioner. A person required by the 54744
commissioner to provide identifying information who has 54745
experienced any change with respect to that information shall 54746
notify the commissioner of the change prior to, or upon, filing 54747
the next tax document requiring such identifying information. 54748

(B) When transmitting or otherwise making use of a tax 54749
document that contains a person's social security number, the 54750
commissioner shall take all reasonable measures necessary to 54751
ensure that the number is not capable of being viewed by the 54752
general public, including, when necessary, masking the number so 54753
that it is not readily discernible by the general public. 54754

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion.

(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars.

(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law.

(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner under this section.

Sec. 5703.47. (A) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as

determined under section 1274 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current year. 54786
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(B) On the fifteenth day of October of each year, the tax commissioner shall determine the federal short-term rate. For purposes of any section of the Revised Code requiring interest to be computed at the rate per annum required by this section, the rate determined by the commissioner under this section, rounded to the nearest whole number per cent, plus three per cent, shall be the interest rate per annum used in making the computation for interest that accrues during the following calendar year. For the purposes of sections 5719.041 and 5731.23 of the Revised Code, references to the "federal short-term rate" are references to the federal short-term rate as determined by the tax commissioner under this section rounded to the nearest whole number per cent. 54789
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(C) Within ten days after the interest rate per annum is determined under this section, the tax commissioner shall notify the auditor of each county in writing of that rate of interest. 54801
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Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the Revised Code: 54804
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(A) "Tax" includes only those taxes imposed on tangible personal property listed in accordance with Chapter 5711. of the Revised Code and taxes imposed under Chapters 5733., 5739., 5741., ~~and 5747.~~ and 5751. of the Revised Code. 54806
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(B) "Taxpayer" means a person subject to or potentially subject to a tax including an employer required to deduct and withhold any amount under section 5747.06 of the Revised Code. 54810
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(C) "Audit" means the examination of a taxpayer or the inspection of the books, records, memoranda, or accounts of a taxpayer for the purpose of determining liability for a tax. 54813
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(D) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 5739.13, 5741.11, 5741.13, ~~or 5747.13,~~ or 5751.09 of the Revised Code.

(E) "County auditor" means the auditor of the county in which the tangible personal property subject to a tax is located.

Sec. 5703.70. (A) On the filing of an application for refund under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, ~~or 5749.08,~~ or 5751.08 of the Revised Code, or an application for compensation under section 5739.123 of the Revised Code, if the tax commissioner determines that the amount of the refund or compensation to which the applicant is entitled is less than the amount claimed in the application, the commissioner shall give the applicant written notice by ordinary mail of the amount. The notice shall be sent to the address shown on the application unless the applicant notifies the commissioner of a different address. The applicant shall have sixty days from the date the commissioner mails the notice to provide additional information to the commissioner or request a hearing, or both.

(B) If the applicant neither requests a hearing nor provides additional information to the tax commissioner within the time prescribed by division (A) of this section, the commissioner shall take no further action, and the refund amount or compensation amount denied becomes final.

(C)(1) If the applicant requests a hearing within the time prescribed by division (A) of this section, the tax commissioner shall assign a time and place for the hearing and notify the applicant of such time and place, but the commissioner may continue the hearing from time to time as necessary. After the

hearing, the commissioner may make such adjustments to the refund 54847
or compensation as the commissioner finds proper, and shall issue 54848
a final determination thereon. 54849

(2) If the applicant does not request a hearing, but provides 54850
additional information, within the time prescribed by division (A) 54851
of this section, the commissioner shall review the information, 54852
make such adjustments to the refund or compensation as the 54853
commissioner finds proper, and issue a final determination 54854
thereon. 54855

(3) The commissioner shall serve a copy of the final 54856
determination made under division (C)(1) or (2) of this section on 54857
the applicant in the manner provided in section 5703.37 of the 54858
Revised Code, and the decision is final, subject to appeal under 54859
section 5717.02 of the Revised Code. 54860

(D) The tax commissioner shall certify to the director of 54861
budget and management and treasurer of state for payment from the 54862
tax refund fund created by section 5703.052 of the Revised Code, 54863
the amount of the refund to be refunded under division (B) or (C) 54864
of this section. The commissioner also shall certify to the 54865
director and treasurer of state for payment from the general 54866
revenue fund the amount of compensation to be paid under division 54867
(B) or (C) of this section. 54868

Sec. 5703.80. There is hereby created in the state treasury 54869
the property tax administration fund. All money to the credit of 54870
the fund shall be used to defray the costs incurred by the 54871
department of taxation in administering the taxation of property 54872
and the equalization of real property valuation. 54873

Each fiscal year between the first and fifteenth days of 54874
July, the tax commissioner shall compute the following amounts for 54875
the property in each taxing district in each county, and certify 54876

to the director of budget and management the sum of those amounts 54877
for all taxing districts in all counties: 54878

(A) ~~Three-tenths~~ For fiscal year 2006, thirty-three 54879
hundredths of one per cent of the total amount by which taxes 54880
charged against real property on the general tax list of real and 54881
public utility property were reduced under section 319.302 of the 54882
Revised Code for the preceding tax year; 54883

(B) ~~Fifteen hundredths~~ For fiscal year 2007 and thereafter, 54884
thirty-five hundredths of one per cent of the total amount by 54885
which taxes charged against real property on the general tax list 54886
of real and public utility property were reduced under section 54887
319.302 of the Revised Code for the preceding tax year; 54888

(C) For fiscal year 2006, one-half of one per cent of the 54889
total amount of taxes charged and payable against public utility 54890
personal property on the general tax list of real and public 54891
utility property for the preceding tax year and of the total 54892
amount of taxes charged and payable against tangible personal 54893
property on the general tax list of personal property of the 54894
preceding tax year and for which returns were filed with the tax 54895
commissioner under section 5711.13 of the Revised Code; 54896

~~(C) Seventy-five~~ (D) For fiscal year 2007, fifty-six 54897
hundredths of one per cent of the total amount of taxes charged 54898
and payable against public utility personal property on the 54899
general tax list of real and public utility property for the 54900
preceding tax year and of the total amount of taxes charged and 54901
payable against tangible personal property on the general tax list 54902
of personal property of the preceding tax year and for which 54903
returns were filed with the tax commissioner under section 5711.13 54904
of the Revised Code; 54905

(E) For fiscal year 2008 and thereafter, six-tenths of one 54906
per cent of the total amount of taxes charged and payable against 54907

public utility personal property on the general tax list of real 54908
and public utility property for the preceding tax year and of the 54909
total amount of taxes charged and payable against tangible 54910
personal property on the general tax list of personal property of 54911
the preceding tax year and for which returns were filed with the 54912
tax commissioner under section 5711.13 of the Revised Code. 54913

After receiving the tax commissioner's certification, the 54914
director of budget and management shall transfer from the general 54915
revenue fund to the property tax administration fund one-fourth of 54916
the amount certified on or before each of the following days: the 54917
first days of August, November, February, and May. 54918

On or before the thirtieth day of June of the fiscal year, 54919
the tax commissioner shall certify to the director of budget and 54920
management the sum of the amounts by which the amounts computed 54921
for a taxing district under ~~divisions (A), (B), and (C)~~ of this 54922
section exceeded the distributions to the taxing district under 54923
division (F) of section 321.24 of the Revised Code, and the 54924
director shall transfer that sum from the property tax 54925
administration fund to the general revenue fund. 54926

Sec. 5705.02. The aggregate amount of taxes that may be 54927
levied on any taxable property in any subdivision or other taxing 54928
unit shall not in any one year exceed ten mills on each dollar of 54929
tax valuation of such subdivision or other taxing unit, except for 54930
taxes specifically authorized to be levied in excess thereof. The 54931
limitation provided by this section shall be known as the 54932
"ten-mill limitation," ~~and.~~ Except when used in reference to 54933
taxes authorized pursuant to section 5705.219 of the Revised Code, 54934
wherever said term is used in the Revised Code, it refers to and 54935
includes both the limitation imposed by this section and the 54936
limitation imposed by Section 2 of Article XII, Ohio Constitution. 54937

Sec. 5705.091. The board of county commissioners of each 54938
county shall establish a county mental retardation and 54939
developmental disabilities general fund. Notwithstanding sections 54940
5705.09 and 5705.10 of the Revised Code, proceeds from levies 54941
under section 5705.222 and division (L) of section 5705.19 of the 54942
Revised Code shall be deposited to the credit of the county mental 54943
retardation and developmental disabilities general fund. Accounts 54944
shall be established within the county mental retardation and 54945
developmental disabilities general fund for each of the several 54946
particular purposes of the levies as specified in the resolutions 54947
under which the levies were approved, and proceeds from different 54948
levies that were approved for the same particular purpose shall be 54949
credited to accounts for that purpose. Other money received by the 54950
county for the purposes of Chapters 3323. and 5126. of the Revised 54951
Code and not required by state or federal law to be deposited to 54952
the credit of a different fund shall also be deposited to the 54953
credit of the county mental retardation and developmental 54954
disabilities general fund, in an account appropriate to the 54955
particular purpose for which the money was received. Unless 54956
otherwise provided by law, an unexpended balance at the end of a 54957
fiscal year in any account in the county mental retardation and 54958
developmental disabilities general fund shall be appropriated the 54959
next fiscal year to the same fund. 54960

A county board of mental retardation and developmental 54961
disabilities may request, by resolution, that the board of county 54962
commissioners establish a county mental retardation and 54963
developmental disabilities capital fund for money to be used for 54964
acquisition, construction, or improvement of capital facilities or 54965
acquisition of capital equipment used in providing services to 54966
mentally retarded and developmentally disabled persons. The county 54967
board of mental retardation and developmental disabilities shall 54968
transmit a certified copy of the resolution to the board of county 54969

commissioners. Upon receiving the resolution, the board of county 54970
commissioners shall establish a county mental retardation and 54971
developmental disabilities capital fund. 54972

A county board shall request, by resolution, that the board 54973
of county commissioners establish a county MR/DD medicaid reserve 54974
fund. On receipt of the resolution, the board of county 54975
commissioners shall establish a county MR/DD medicaid reserve 54976
fund. The portion of federal revenue funds that the county board 54977
earns for providing ~~habilitation center services~~, medicaid case 54978
management services, and home and community-based services that is 54979
needed for the county board to pay for extraordinary costs, 54980
including extraordinary costs for services to individuals with 54981
mental retardation or other developmental disability, and ensure 54982
the availability of adequate funds in the event a county property 54983
tax levy for services for individuals with mental retardation or 54984
other developmental disability fails shall be deposited into the 54985
fund. The county board shall use money in the fund for those 54986
purposes in accordance with rules adopted under section 5123.0413 54987
of the Revised Code. 54988

Sec. 5705.214. Not more than three elections during any 54989
calendar year shall include the questions by a school district of 54990
tax levies proposed under any one or any combination of the 54991
following sections: sections 5705.194, 5705.21, 5705.212, 54992
5705.213, 5705.217, ~~and~~ 5705.218, and 5705.219 of the Revised 54993
Code. 54994

Sec. 5705.219. (A)(1) The board of education of a city, 54995
local, or exempted village school district may adopt a resolution, 54996
by a vote of two-thirds of all of the members of the board, 54997
proposing to levy an additional tax within the one per cent 54998
limitation for one of the purposes specified under division (A) or 54999

(F) of section 5705.19 of the Revised Code or for the purpose of 55000
general, ongoing permanent improvements. A board of education 55001
shall not propose to levy a tax pursuant to this section at a rate 55002
that, when added to the rates of any other taxes levied pursuant 55003
to this section, would cause the aggregate rate of such taxes for 55004
any tax year to exceed eight mills per dollar of the taxable value 55005
of taxable property in the school district. A resolution adopted 55006
under this section may propose to renew an existing tax imposed 55007
pursuant to this section for the same purpose, or may propose, as 55008
a single question, to authorize a tax under this paragraph to 55009
replace one or more existing taxes being levied for the same 55010
purpose in excess of the ten-mill limitation pursuant to section 55011
5705.21 of the Revised Code. For the purposes of sections 133.01, 55012
319.301, 5705.02, 5705.04, 5705.06, 5705.07, 5705.29, 5705.31, 55013
5705.34, 5705.51, and any other section of the Revised Code 55014
respecting the classification of tax levies according to 55015
limitations on the rate, a tax authorized pursuant to this section 55016
is in excess of the ten-mill limitation but is not in excess of 55017
the one per cent limitation imposed by Section 2 of Article XII, 55018
Ohio Constitution. 55019

(2) The board shall specify in the resolution that the taxes 55020
charged and payable against carryover property, as defined in 55021
section 319.301 of the Revised Code, in each of the classes of 55022
real property classified under section 5713.041 of the Revised 55023
Code shall not increase from one year to the next year by more 55024
than a percentage specified in the resolution, which shall be not 55025
more than four per cent. The percentage shall be the same for each 55026
class of real property. 55027

(3) The resolution shall be confined to a single purpose and 55028
shall specify the amount of the increase in rate, the purpose of 55029
the increase, the percentage specified under division (A)(2) of 55030
this section, and the number of years during which the increase 55031

shall be in effect. The number of years may be any number not 55032
exceeding seven. If the resolution proposes to levy a tax to 55033
replace one or more existing taxes, the resolution also shall 55034
specify the rate of each existing tax proposed to be replaced. A 55035
tax levied to replace one or more existing taxes shall not be 55036
levied on the current tax lists and duplicates but shall first be 55037
levied on the tax lists and duplicates for the tax year succeeding 55038
the date of the election at which the tax is approved. The 55039
existing taxes proposed to be replaced shall be repealed effective 55040
on the first day of January next succeeding the election. The 55041
resolution shall specify the date for holding the election, which 55042
shall not be earlier than seventy-five days after the adoption and 55043
certification of such resolution and which shall be consistent 55044
with the requirements of section 3501.01 of the Revised Code. 55045

(4) The resolution shall go into immediate effect upon its 55046
passage, and no publication of the resolution shall be necessary 55047
other than that provided for in the notice of election. 55048
Publication of notice of the election shall be made in one or more 55049
newspapers of general circulation in the county once a week for 55050
four consecutive weeks. 55051

(B) A copy of a resolution adopted under division (A) of this 55052
section shall be certified by the board of education to the board 55053
of elections of the proper county not less than seventy-five days 55054
before the election specified in the resolution, and the board of 55055
elections shall submit the proposal to the electors of the school 55056
district at that election. The board of elections shall make the 55057
necessary arrangements for the submission of the question to the 55058
electors of the school district, and the election shall be 55059
conducted, canvassed, and certified in the same manner as regular 55060
elections in the school district for the election of officers. 55061
Notice of the election shall be published in a newspaper of 55062
general circulation in the school district once a week for four 55063

consecutive weeks prior to the election, stating the purpose, the 55064
proposed increase in rate, expressed in dollars and cents for each 55065
one hundred dollars of valuation as well as in mills for each one 55066
dollar of valuation, the number of years during which such 55067
increase will be in effect, and the time and place of the 55068
election. The notice also shall include the following statement, 55069
or a statement of substantially similar meaning: "if the levy is 55070
approved by the electors, the total amount of taxes charged by the 55071
levy against real property in the school district will not 55072
increase by more than (here insert the percentage 55073
specified pursuant to division (A)(2) of this section) each year, 55074
except for increases arising from real property newly added to the 55075
school district tax lists." 55076

The form of the ballots cast at an election held pursuant to 55077
this section shall be as follows: 55078

"A tax for the benefit of (name of school 55079
district) for the purpose of (purpose stated in the 55080
resolution) at a rate not exceeding mills for each one 55081
dollar of valuation, which amounts to (rate expressed in 55082
dollars and cents) for each one hundred dollars of valuation, for 55083
..... (number of years the levy is to run). If the levy is 55084
approved by the electors, the total amount of taxes charged by the 55085
levy against real property in the school district will not 55086
increase by more than (here insert the percentage 55087
specified pursuant to division (A)(2) of this section) each year, 55088
except for increases arising from real property newly added to the 55089
school district tax lists. 55090

	<u>For the tax levy</u>	
	<u>Against the tax levy</u>	<u>"</u>

If the question submitted is a proposal to renew an existing 55093
levy imposed pursuant to this section, the form of the ballot 55094
specified in this division shall be changed by substituting for 55095

the words "A tax" at the beginning of the form the words "A 55096
renewal of a tax." If the question submitted is a proposal to 55097
replace one or more existing taxes, the form of the ballot shall 55098
be changed by adding at the end of the first sentence "to replace 55099
an existing tax currently authorized to be levied at a rate of 55100
..... mills for each one dollar of valuation." If more than one 55101
existing tax is proposed to be replaced, the form shall be 55102
modified accordingly, indicating the rate at which each existing 55103
tax is authorized to be levied. 55104

The question covered by the resolution shall be submitted as 55105
a separate proposition but may be printed on the same ballot with 55106
any other proposition submitted at the same election, other than 55107
the election of officers. 55108

If a majority of electors voting on the question vote in 55109
favor of the tax, the result of the election shall be certified to 55110
the tax commissioner. In the first year of the levy, it shall be 55111
extended on the tax lists after the February settlement next 55112
succeeding the election. If the tax is to be placed upon the tax 55113
list of the current year, as specified in the resolution providing 55114
for its submission, the result of the election shall be certified 55115
immediately after the canvass by the board of elections to the 55116
board of education, which shall forthwith make the necessary levy 55117
and certify it to the county auditor, who shall extend it on the 55118
tax lists for collection. After the first year, the tax levy shall 55119
be included in the annual tax budget that is certified to the 55120
county budget commission. 55121

If a majority of the electors voting on the question vote in 55122
favor of the levy, the board of education may forthwith make the 55123
necessary levy within the school district at the additional rate, 55124
or at any lesser rate, for the purpose stated in the resolution. 55125
The levy shall be included in the next tax budget that is 55126
certified to the county budget commission. 55127

(C)(1) After the approval of a levy on the current tax list 55128
and duplicate for current expenses and before the first tax 55129
collection from such levy can be made, the board of education may 55130
anticipate a fraction of the proceeds of the levy and issue 55131
anticipation notes in a principal amount not exceeding fifty per 55132
cent of the total estimated proceeds of the levy to be collected 55133
during the first year of the levy. 55134

(2) After the approval of a levy for permanent improvements 55135
or for general, ongoing permanent improvements, the board of 55136
education may anticipate a fraction of the proceeds of the levy 55137
and issue anticipation notes in a principal amount not exceeding 55138
fifty per cent of the total estimated proceeds of the levy 55139
remaining to be collected in each year over a period of five years 55140
after the year in which the notes are issued. 55141

(3) The notes shall be issued as provided in section 133.24 55142
of the Revised Code, shall have principal payments during each 55143
year after the year of their issuance over a period not to exceed 55144
five years, and may have a principal payment in the year of their 55145
issuance. 55146

Sec. 5705.29. This section does not apply to a subdivision or 55147
taxing unit for which the county budget commission has waived the 55148
requirement to adopt a tax budget pursuant to section 5705.281 of 55149
the Revised Code. The tax budget shall present the following 55150
information in such detail as is prescribed by the auditor of 55151
state: 55152

(A)(1) A statement of the necessary current operating 55153
expenses for the ensuing fiscal year for each department and 55154
division of the subdivision, classified as to personal services 55155
and other expenses, and the fund from which such expenditures are 55156
to be made. Except in the case of a school district, this estimate 55157
may include a contingent expense not designated for any particular 55158

purpose, and not to exceed three per cent of the total amount of 55159
appropriations for current expenses. In the case of a school 55160
district, this estimate may include a contingent expense not 55161
designated for any particular purpose and not to exceed thirteen 55162
per cent of the total amount of appropriations for current 55163
expenses. 55164

(2) A statement of the expenditures for the ensuing fiscal 55165
year necessary for permanent improvements, exclusive of any 55166
expense to be paid from bond issues, classified as to the 55167
improvements contemplated by the subdivision and the fund from 55168
which such expenditures are to be made; 55169

(3) The amounts required for the payment of final judgments; 55170

(4) A statement of expenditures for the ensuing fiscal year 55171
necessary for any purpose for which a special levy is authorized, 55172
and the fund from which such expenditures are to be made; 55173

(5) Comparative statements, so far as possible, in parallel 55174
columns of corresponding items of expenditures for the current 55175
fiscal year and the two preceding fiscal years. 55176

(B)(1) An estimate of receipts from other sources than the 55177
general property tax during the ensuing fiscal year, which shall 55178
include an estimate of unencumbered balances at the end of the 55179
current fiscal year, and the funds to which such estimated 55180
receipts are credited; 55181

(2) The amount each fund requires from the general property 55182
tax, which shall be the difference between the contemplated 55183
expenditure from the fund and the estimated receipts, as provided 55184
in this section. The section of the Revised Code under which the 55185
tax is authorized shall be set forth. 55186

(3) Comparative statements, so far as possible, in parallel 55187
columns of taxes and other revenues for the current fiscal year 55188

and the two preceding fiscal years. 55189

(C)(1) The amount required for debt charges; 55190

(2) The estimated receipts from sources other than the tax 55191
levy for payment of such debt charges, including the proceeds of 55192
refunding bonds to be issued to refund bonds maturing in the next 55193
succeeding fiscal year; 55194

(3) The net amount for which a tax levy shall be made, 55195
classified as to bonds authorized and issued prior to January 1, 55196
1922, and those authorized and issued subsequent to such date, and 55197
as to what portion of the levy will be within and what in excess 55198
of the ten-mill limitation. 55199

(D) An estimate of amounts from taxes authorized to be levied 55200
in excess of the ten-mill limitation on the tax rate, and the fund 55201
to which such amounts will be credited, together with the sections 55202
of the Revised Code under which each such tax is exempted from all 55203
limitations on the tax rate. 55204

(E)(1) A board of education may include in its budget for the 55205
fiscal year in which a levy proposed under section 5705.219, 55206
5705.194, 5705.21, or 5705.213, or the original levy under section 55207
5705.212 of the Revised Code is first extended on the tax list and 55208
duplicate an estimate of expenditures to be known as a voluntary 55209
contingency reserve balance, which shall not be greater than 55210
twenty-five per cent of the total amount of the levy estimated to 55211
be available for appropriation in such year. 55212

(2) A board of education may include in its budget for the 55213
fiscal year following the year in which a levy proposed under 55214
section 5705.219, 5705.194, 5705.21, or 5705.213, or the original 55215
levy under section 5705.212 of the Revised Code is first extended 55216
on the tax list and duplicate an estimate of expenditures to be 55217
known as a voluntary contingency reserve balance, which shall not 55218
be greater than twenty per cent of the amount of the levy 55219

estimated to be available for appropriation in such year. 55220

(3) Except as provided in division (E)(4) of this section, 55221
the full amount of any reserve balance the board includes in its 55222
budget shall be retained by the county auditor and county 55223
treasurer out of the first semiannual settlement of taxes until 55224
the beginning of the next succeeding fiscal year, and thereupon, 55225
with the depository interest apportioned thereto, it shall be 55226
turned over to the board of education, to be used for the purposes 55227
of such fiscal year. 55228

(4) A board of education, by a two-thirds vote of all members 55229
of the board, may appropriate any amount withheld as a voluntary 55230
contingency reserve balance during the fiscal year for any lawful 55231
purpose, provided that prior to such appropriation the board of 55232
education has authorized the expenditure of all amounts 55233
appropriated for contingencies under section 5705.40 of the 55234
Revised Code. Upon request by the board of education, the county 55235
auditor shall draw a warrant on the district's account in the 55236
county treasury payable to the district in the amount requested. 55237

(F)(1) A board of education may include a spending reserve in 55238
its budget for fiscal years ending on or before June 30, 2002. The 55239
spending reserve shall consist of an estimate of expenditures not 55240
to exceed the district's spending reserve balance. A district's 55241
spending reserve balance is the amount by which the designated 55242
percentage of the district's estimated personal property taxes to 55243
be settled during the calendar year in which the fiscal year ends 55244
exceeds the estimated amount of personal property taxes to be so 55245
settled and received by the district during that fiscal year. 55246
Moneys from a spending reserve shall be appropriated in accordance 55247
with section 133.301 of the Revised Code. 55248

(2) For the purposes of computing a school district's 55249
spending reserve balance for a fiscal year, the designated 55250
percentage shall be as follows: 55251

Fiscal year ending in:	Designated percentage	
1998	50%	55253
1999	40%	55254
2000	30%	55255
2001	20%	55256
2002	10%	55257

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 or division (E)(3) or (4) of section 5747.62 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of sections 5747.51 and 5747.62 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5705.391. ~~(A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for appropriation by the district during the fiscal year and their~~

~~sources; the nature and amount of expenses to be incurred by the 55284
district during such year, the outstanding and unpaid expenses on 55285
the date the appropriation measure, amendment, or supplement is 55286
adopted; the date or dates by which such expenses must be paid; 55287
and such other information as the superintendent requires to 55288
enable the superintendent to determine whether during such year 55289
the district will incur any expenses that will impair its ability 55290
to operate its schools with the revenue available to it from 55291
existing revenue sources. The plan or amended plan shall be 55292
presented in such detail and form as the superintendent 55293
prescribes. 55294~~

~~(B)(A) No later than July 1, 1998, the department of 55295
education and the auditor of state shall jointly adopt rules 55296
requiring ~~school districts to include~~ boards of education to 55297
submit five-year projections of operational revenues and 55298
expenditures ~~in the spending plan required by this section~~. The 55299
rules shall provide for the auditor of state or the department to 55300
examine the five-year projections and to determine whether any 55301
further fiscal analysis is needed to ascertain whether a district 55302
has the potential to incur a deficit during the first three years 55303
of the five-year period. 55304~~

~~The auditor of state or the department may conduct any 55305
further audits or analyses necessary to assess any district's 55306
fiscal condition. If further audits or analyses are conducted by 55307
the auditor of state, the auditor of state shall notify the 55308
department of the district's fiscal condition, and the department 55309
shall immediately notify the district of any potential to incur a 55310
deficit in the current fiscal year or of any strong indications 55311
that a deficit will be incurred in either of the ensuing two 55312
years. If such audits or analyses are conducted by the department, 55313
the department shall immediately notify the district and the 55314
auditor of state of such potential deficit or strong indications 55315~~

thereof.

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A district notified under this section shall take immediate steps to eliminate any deficit in the current fiscal year and shall begin to plan to avoid the projected future deficits.

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~~(C)~~(B) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may limit, suspend, or revoke a license as defined under section 3319.31 of the Revised Code that has been issued to any school employee found to have willfully contributed erroneous, inaccurate, or incomplete data required for the submission of the ~~appropriation measure and spending plan~~ five-year projection required by this section.

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Sec. 5705.392. A board of county commissioners may adopt as a part of its annual appropriation ~~measure~~ resolution a spending plan, or in the case of an amended appropriation ~~measure~~ resolution, an amended spending plan, setting forth a quarterly schedule of expenses and expenditures of ~~all~~ any appropriations for the fiscal year from ~~the~~ any county ~~general~~ fund. The spending plan or amended spending plan shall be classified to set forth separately a quarterly schedule of expenses and expenditures for ~~each~~ any office, department, and division, and, within each, the amount appropriated for personal services. Each office, department, and division for which a spending plan or amended spending plan is adopted shall be limited in its expenses and expenditures of moneys appropriated from the ~~general~~ applicable fund during any quarter by the schedule established in the spending plan or amended spending plan. The schedule established in the spending plan or amended spending plan shall serve as a limitation during a quarter on ~~the making of~~ entering into contracts and giving ~~of~~ orders involving the expenditure of money during that quarter for purposes of division (D) of section 5705.41 of the Revised Code.

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The board of county commissioners shall give to each office, department, or division for which it intends to provide a spending plan or amended spending plan written notice at least thirty days before the adoption of the appropriation resolution or amended appropriation resolution. The notice shall be sent by regular first class mail or given by personal service, and shall include a copy of the proposed spending plan or amended spending plan. The office, department, or division may meet with the board at any regular session of the board to comment on the notice, express concerns, or ask questions about the proposed spending plan or amended spending plan.

Sec. 5707.031. (A) As used in this section, "tax otherwise due" means the tax imposed on a dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the dealer in intangibles is entitled to claim.

(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority.

(C) If the dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the dealer in intangibles shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(D) If the dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax

<u>otherwise due, then for the calendar year the dealer in</u>	55378
<u>intangibles shall claim a refundable credit equal to the sum of</u>	55379
<u>the following:</u>	55380
<u>(1) The amount, if any, of the tax otherwise due;</u>	55381
<u>(2) Seventy-five per cent of the difference between the</u>	55382
<u>amount of the refundable credit shown on the certificate and the</u>	55383
<u>tax otherwise due.</u>	55384
<u>(E) If the dealer in intangibles elected a nonrefundable</u>	55385
<u>credit under section 150.07 of the Revised Code and if the</u>	55386
<u>nonrefundable credit to which the dealer in intangibles would</u>	55387
<u>otherwise be entitled under this section for any calendar year is</u>	55388
<u>greater than the tax otherwise due, the excess shall be allowed as</u>	55389
<u>a nonrefundable credit in each of the ensuing ten calendar years,</u>	55390
<u>but the amount of any excess nonrefundable credit allowed in the</u>	55391
<u>ensuing calendar year shall be deducted from the balance carried</u>	55392
<u>forward to the next calendar year.</u>	55393
Sec. 5709.07. (A) The following property shall be exempt from	55394
taxation:	55395
(1) Public schoolhouses, the books and furniture in them, and	55396
the ground attached to them necessary for the proper occupancy,	55397
use, and enjoyment of the schoolhouses, and not leased or	55398
otherwise used with a view to profit;	55399
(2) Houses used exclusively for public worship, the books and	55400
furniture in them, and the ground attached to them that is not	55401
leased or otherwise used with a view to profit and that is	55402
necessary for their proper occupancy, use, and enjoyment;	55403
(3) Real property owned and operated by a church that is used	55404
primarily for church retreats or church camping, and that is not	55405
used as a permanent residence. Real property exempted under	55406
division (A)(3) of this section may be made available by the	55407

church on a limited basis to charitable and educational 55408
institutions if the property is not leased or otherwise made 55409
available with a view to profit. 55410

(4) Public colleges and academies and all buildings connected 55411
with them, and all lands connected with public institutions of 55412
learning, not used with a view to profit, including those 55413
buildings and lands that satisfy all of the following: 55414

(a) The buildings are used for housing or housing-related 55415
facilities for full-time students, faculty, or employees of a 55416
state university, or for other purposes related to the state 55417
university's educational purpose, and the lands are used for 55418
common space, walkways, and green spaces for the state 55419
university's students, faculty, or employees. As used in this 55420
division, "housing-related facilities" includes parking facilities 55421
related to the buildings and common buildings made available to 55422
students, faculty, or employees of a state university. The leasing 55423
of housing to full-time students of the state university is not 55424
used with a view to profit under this division. 55425

(b) The buildings and lands are supervised or otherwise under 55426
the control, directly or indirectly, of an organization that is 55427
exempt from federal income taxation under section 501(c)(3) of the 55428
Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as 55429
amended, and the state university has entered into a joint 55430
agreement with the organization that entitles the students, 55431
faculty, or employees of the state university to use the lands or 55432
buildings; 55433

(c) The state university has agreed, under the terms of the 55434
joint agreement with the organization described in division 55435
(A)(4)(b) of this section, that the state university, to the 55436
extent applicable under the agreement, will make payments to the 55437
organization in amounts sufficient to maintain agreed-upon debt 55438

service coverage ratios on bonds related to the lands or 55439
buildings. 55440

(B) ~~This~~ Except as provided in division (A)(4) of this 55441
section, this section shall not extend to leasehold estates or 55442
real property held under the authority of a college or university 55443
of learning in this state; but leaseholds, or other estates or 55444
property, real or personal, the rents, issues, profits, and income 55445
of which is given to a municipal corporation, school district, or 55446
subdistrict in this state exclusively for the use, endowment, or 55447
support of schools for the free education of youth without charge 55448
shall be exempt from taxation as long as such property, or the 55449
rents, issues, profits, or income of the property is used and 55450
exclusively applied for the support of free education by such 55451
municipal corporation, district, or subdistrict. 55452

(C) As used in this section, ~~"church":~~ 55453

(1) "Church" means a fellowship of believers, congregation, 55454
society, corporation, convention, or association that is formed 55455
primarily or exclusively for religious purposes and that is not 55456
formed for the private profit of any person. 55457

(2) "State university" has the same meaning as in section 55458
3345.011 of the Revised Code. 55459

Sec. 5709.40. (A) As used in this section: 55460

(1) "Blighted area" and "impacted city" have the same 55461
meanings as in section 1728.01 of the Revised Code. 55462

(2) "Business day" means a day of the week excluding 55463
Saturday, Sunday, and a legal holiday as defined under section 55464
1.14 of the Revised Code. 55465

(3) "Housing renovation" means a project carried out for 55466
residential purposes. 55467

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance. ~~"Improvement" does not include a public infrastructure improvement.~~

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as

evidenced by a written economic development plan or urban renewal
plan for the district that has been adopted by the legislative
authority of the subdivision. 55498
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(g) The district is comprised entirely of unimproved land 55501
that is located in a distressed area as defined in section 122.23 55502
of the Revised Code. 55503

(6) "Project" means development activities undertaken on one 55504
or more parcels, including, but not limited to, construction, 55505
expansion, and alteration of buildings or structures, demolition, 55506
remediation, and site development, and any building or structure 55507
that results from those activities. 55508

(7) "Public infrastructure improvement" includes, but is not 55509
limited to, public roads and highways; water and sewer lines; 55510
environmental remediation; land acquisition, including acquisition 55511
in aid of industry, commerce, distribution, or research; 55512
demolition, including demolition on private property when 55513
determined to be necessary for economic development purposes; 55514
stormwater and flood remediation projects, including such projects 55515
on private property when determined to be necessary for public 55516
health, safety, and welfare; the provision of gas, electric, and 55517
communications service facilities; and the enhancement of public 55518
waterways through improvements that allow for greater public 55519
access. 55520

(B) The legislative authority of a municipal corporation, by 55521
ordinance, may declare improvements to certain parcels of real 55522
property located in the municipal corporation to be a public 55523
purpose. Improvements with respect to a parcel that is used or to 55524
be used for residential purposes may be declared a public purpose 55525
under this division only if the parcel is located in a blighted 55526
area of an impacted city. Except as otherwise provided in division 55527
(D) of this section, not more than seventy-five per cent of an 55528

improvement thus declared to be a public purpose may be exempted
from real property taxation; ~~the percentage exempted shall not,~~
~~except as otherwise provided in that division, exceed the~~
~~estimated percentage of the incremental demand placed on the~~
~~public infrastructure improvements that is directly attributable~~
~~to the exempted improvement.~~ The ordinance shall specify the
percentage of the improvement to be exempted from taxation.

An ordinance adopted or amended under this division shall
designate the specific public infrastructure improvements made, to
be made, or in the process of being made by the municipal
corporation that directly benefit, or that once made will directly
benefit, the parcels for which improvements are declared to be a
public purpose. ~~For the purposes of this division, a public~~
~~infrastructure improvement directly benefits such a parcel only if~~
~~a project on the parcel places direct, additional demand on the~~
~~public infrastructure improvement or, if the public infrastructure~~
~~improvement has not yet been completed, will place direct,~~
~~additional demand on the public infrastructure improvement once it~~
~~is completed.~~ The service payments provided for in section 5709.42
of the Revised Code shall be used to finance the public
infrastructure improvements designated in the ordinance or for the
purpose described in division (D)(1) of this section.

(C) The legislative authority of a municipal corporation may
adopt an ordinance creating an incentive district and declaring
improvements to parcels within the district to be a public purpose
and exempt from taxation as provided in this section. The
ordinance shall delineate the boundary of the district and
specifically identify each parcel within the district. A district
may not include any parcel that is or has been exempted from
taxation under division (B) of this section or that is or has been
within another district created under this division. An ordinance
may create more than one such district, and more than one

ordinance may be adopted under this division. 55561

Not later than thirty days prior to adopting an ordinance 55562
under this division, if the municipal corporation intends to apply 55563
for exemptions from taxation under section 5709.911 of the Revised 55564
Code on behalf of owners of real property located within the 55565
proposed incentive district, the legislative authority of a 55566
municipal corporation shall conduct a public hearing on the 55567
proposed ordinance. Not later than thirty days prior to the public 55568
hearing, the legislative authority shall give notice of the public 55569
hearing and the proposed ordinance by first class mail to every 55570
real property owner whose property is located within the 55571
boundaries of the proposed incentive district that is the subject 55572
of the proposed ordinance. 55573

An ordinance adopted under this division shall specify the 55574
life of the district and the percentage of the improvements to be 55575
exempted and shall designate the public infrastructure 55576
improvements made or to be made that benefit or serve parcels in 55577
the district. The service payments provided for in section 5709.42 55578
of the Revised Code shall be used to finance the designated public 55579
infrastructure improvements or for the purpose described in 55580
division (D)(1) of this section. 55581

An ordinance adopted under this division may authorize the 55582
use of service payments provided for in section 5709.42 of the 55583
Revised Code for the purpose of housing renovations within the 55584
district, provided that the ordinance also designates public 55585
infrastructure improvements that benefit or serve the district, 55586
and that a project within the district places real property in use 55587
for commercial or industrial purposes. Service payments may be 55588
used to finance or support loans, deferred loans, and grants to 55589
persons for the purpose of housing renovations within the 55590
district. The ordinance shall designate the parcels within the 55591
district that are eligible for housing renovation. The ordinance 55592

shall state separately the amounts or the percentages of the
expected aggregate service payments that are designated for each
public infrastructure improvement and for the general purpose of
housing renovations.

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Except with the approval of the board of education of each
city, local, or exempted village school district within the
territory of which the district is or will be located, the life of
a district shall not exceed ten years, and the percentage of
improvements to be exempted shall not exceed seventy-five per
cent. With such approval, the life of a district may be not more
than thirty years, and the percentage of improvements to be
exempted may be not more than one hundred per cent.

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Approval of a board of education shall be obtained in the
manner provided in division (D) of this section for exemptions
under division (B) of this section, except that the notice to the
board of education shall delineate the boundaries of the district,
specifically identify each parcel within the district, identify
each anticipated improvement in the district, provide an estimate
of the true value in money of each such improvement, specify the
life of the district and the percentage of improvements that would
be exempted, and indicate the date on which the legislative
authority intends to adopt the ordinance.

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A municipal corporation shall not adopt an ordinance under
this division after June 30, ~~2007~~ 2005.

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(D)(1) If the ordinance declaring improvements to a parcel to
be a public purpose or creating an incentive district specifies
that payments in lieu of taxes provided for in section 5709.42 of
the Revised Code shall be paid to the city, local, or exempted
village school district in which the parcel is located in the
amount of the taxes that would have been payable to the school
district if the improvements had not been exempted from taxation,

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the percentage of the improvement that may be exempted from 55624
taxation may exceed seventy-five per cent, and the exemption may 55625
be granted for up to thirty years, without the approval of the 55626
board of education as otherwise required under division (D)(2) of 55627
this section. 55628

(2) Improvements with respect to a parcel may be exempted 55629
from taxation under division (B) of this section for up to ten 55630
years or, with the approval under this paragraph of the board of 55631
education of the city, local, or exempted village school district 55632
within which the parcel is located, for up to thirty years. The 55633
percentage of the improvement exempted from taxation may, with 55634
such approval, exceed seventy-five per cent, but shall not exceed 55635
one hundred per cent. Not later than forty-five business days 55636
prior to adopting an ordinance under this section declaring 55637
improvements to be a public purpose that is subject to approval by 55638
a board of education under this division, the legislative 55639
authority shall deliver to the board of education a notice stating 55640
its intent to adopt an ordinance making that declaration. The 55641
notice shall identify the parcels for which improvements are to be 55642
exempted from taxation, provide an estimate of the true value in 55643
money of the improvements, specify the period for which the 55644
improvements would be exempted from taxation and the percentage of 55645
the improvement that would be exempted, and indicate the date on 55646
which the legislative authority intends to adopt the ordinance. 55647
The board of education, by resolution adopted by a majority of the 55648
board, may approve the exemption for the period or for the 55649
exemption percentage specified in the notice, may disapprove the 55650
exemption for the number of years in excess of ten, may disapprove 55651
the exemption for the percentage of the improvement to be exempted 55652
in excess of seventy-five per cent, or both, or may approve the 55653
exemption on the condition that the legislative authority and the 55654
board negotiate an agreement providing for compensation to the 55655

school district equal in value to a percentage of the amount of 55656
taxes exempted in the eleventh and subsequent years of the 55657
exemption period or, in the case of exemption percentages in 55658
excess of seventy-five per cent, compensation equal in value to a 55659
percentage of the taxes that would be payable on the portion of 55660
the improvement in excess of seventy-five per cent were that 55661
portion to be subject to taxation, or other mutually agreeable 55662
compensation. The board of education shall certify its resolution 55663
to the legislative authority not later than fourteen days prior to 55664
the date the legislative authority intends to adopt the ordinance 55665
as indicated in the notice. ~~If the board of education approves the~~ 55666
~~exemption on the condition that a compensation agreement be~~ 55667
~~negotiated, the board in its resolution shall propose a~~ 55668
~~compensation percentage.~~ If the board of education and the 55669
legislative authority negotiate a mutually acceptable compensation 55670
agreement, the ordinance may declare the improvements a public 55671
purpose for the number of years specified in the ordinance or, in 55672
the case of exemption percentages in excess of seventy-five per 55673
cent, for the exemption percentage specified in the ordinance. In 55674
either case, if the board and the legislative authority fail to 55675
negotiate a mutually acceptable compensation agreement, the 55676
ordinance may declare the improvements a public purpose for not 55677
more than ten years, but shall not exempt more than seventy-five 55678
per cent of the improvements from taxation, ~~or, in the case of an~~ 55679
~~ordinance adopted under division (B) of this section, not more~~ 55680
~~than the estimated percentage of the incremental demand as~~ 55681
~~otherwise prescribed by division (B) of this section if that~~ 55682
~~percentage is less than seventy five per cent.~~ If the board fails 55683
to certify a resolution to the legislative authority within the 55684
time prescribed by this division, the legislative authority 55685
thereupon may adopt the ordinance and may declare the improvements 55686
a public purpose for up to thirty years, or, in the case of 55687
exemption percentages proposed in excess of seventy-five per cent, 55688

for the exemption percentage specified in the ordinance. The 55689
legislative authority may adopt the ordinance at any time after 55690
the board of education certifies its resolution approving the 55691
exemption to the legislative authority, or, if the board approves 55692
the exemption on the condition that a mutually acceptable 55693
compensation agreement be negotiated, at any time after the 55694
compensation agreement is agreed to by the board and the 55695
legislative authority. 55696

(3) If a board of education has adopted a resolution waiving 55697
its right to approve exemptions from taxation and the resolution 55698
remains in effect, approval of exemptions by the board is not 55699
required under this division. If a board of education has adopted 55700
a resolution allowing a legislative authority to deliver the 55701
notice required under ~~this~~ division (D)(2) of this section fewer 55702
than forty-five business days prior to the legislative authority's 55703
adoption of the ordinance, the legislative authority shall deliver 55704
the notice to the board not later than the number of days prior to 55705
such adoption as prescribed by the board in its resolution. If a 55706
board of education adopts a resolution waiving its right to 55707
approve agreements or shortening the notification period, the 55708
board shall certify a copy of the resolution to the legislative 55709
authority. If the board of education rescinds such a resolution, 55710
it shall certify notice of the rescission to the legislative 55711
authority. 55712

(4) If the legislative authority is not required by division 55713
(D)(1), (2), or (3) of this section to notify the board of 55714
education of the legislative authority's intent to declare 55715
improvements to be a public purpose, the legislative authority 55716
shall comply with the notice requirements imposed under section 55717
5709.83 of the Revised Code, unless the board has adopted a 55718
resolution under that section waiving its right to receive such a 55719
notice. 55720

(E) An exemption from taxation granted under this section 55721
commences with the tax year ~~in which an improvement first appears~~ 55722
~~on the tax list and duplicate of real and public utility property~~ 55723
~~and that begins after the effective date of specified in the~~ 55724
ordinance. Except as otherwise provided in this division, the 55725
exemption ends on the date specified in the ordinance as the date 55726
the improvement ceases to be a public purpose or the incentive 55727
district expires, or ends on the date on which the public 55728
infrastructure improvements and housing renovations are paid in 55729
full from the municipal public improvement tax increment 55730
equivalent fund established under division (A) of section 5709.43 55731
of the Revised Code, whichever occurs first. The exemption of an 55732
improvement with respect to a parcel may end on a later date, as 55733
specified in the ordinance, if the legislative authority and the 55734
board of education of the city, local, or exempted village school 55735
district within which the parcel is located have entered into a 55736
compensation agreement under section 5709.82 of the Revised Code 55737
with respect to the improvement or district and the board of 55738
education has approved the term of the exemption under division 55739
(D)(2) of this section, but in no case shall the improvement be 55740
exempted from taxation for more than thirty years. Exemptions 55741
shall be claimed and allowed in the same manner as in the case of 55742
other real property exemptions. If an exemption status changes 55743
during a year, the procedure for the apportionment of the taxes 55744
for that year is the same as in the case of other changes in tax 55745
exemption status during the year. 55746

(F) Additional municipal financing of public infrastructure 55747
improvements and housing renovations may be provided by any 55748
methods that the municipal corporation may otherwise use for 55749
financing such improvements. If the municipal corporation issues 55750
bonds or notes to finance the public infrastructure improvements 55751
and housing renovations and pledges money from the municipal 55752

public improvement tax increment equivalent fund to pay the 55753
interest on and principal of the bonds or notes, the bonds or 55754
notes are not subject to Chapter 133. of the Revised Code. 55755

(G) The municipal corporation, not later than fifteen days 55756
after the adoption of an ordinance under this section, shall 55757
submit to the director of development a copy of the ordinance. On 55758
or before the thirty-first day of March of each year, the 55759
municipal corporation shall submit a status report to the director 55760
of development. The report shall indicate, in the manner 55761
prescribed by the director, the progress of the project during 55762
each year that an exemption remains in effect, including a summary 55763
of the receipts from service payments in lieu of taxes; 55764
expenditures of money from the funds created under section 5709.43 55765
of the Revised Code; a description of the public infrastructure 55766
improvements and housing renovations financed with such 55767
expenditures; and a quantitative summary of changes in employment 55768
and private investment resulting from each project. 55769

(H) Nothing in this section shall be construed to prohibit a 55770
legislative authority from declaring to be a public purpose 55771
improvements with respect to more than one parcel. 55772

Sec. 5709.41. (A) As used in this section: 55773

(1) "Business day" means a day of the week excluding 55774
Saturday, Sunday, and a legal holiday as defined under section 55775
1.14 of the Revised Code. 55776

(2) "Improvement" means the increase in assessed value of any 55777
parcel of property subsequent to the acquisition of the parcel by 55778
a municipal corporation engaged in urban redevelopment. 55779

(B) The legislative authority of a municipal corporation, by 55780
ordinance, may declare to be a public purpose any improvement to a 55781
parcel of real property if both of the following apply: 55782

(1) The municipal corporation held fee title to the parcel 55783
prior to the adoption of the ordinance; 55784

(2) The parcel is leased, or the fee of the parcel is 55785
conveyed, to any person either before or after adoption of the 55786
ordinance. 55787

Improvements used or to be used for residential purposes may 55788
be declared a public purpose under this section only if the parcel 55789
is located in a blighted area of an impacted city as those terms 55790
are defined in section 1728.01 of the Revised Code. 55791

(C) Except as otherwise provided in division (C)(1), (2), or 55792
(3) of this section, not more than seventy-five per cent of an 55793
improvement thus declared to be a public purpose may be exempted 55794
from real property taxation. The ordinance shall specify the 55795
percentage of the improvement to be exempted from taxation. 55796

(1) If the ordinance declaring improvements to a parcel to be 55797
a public purpose specifies that payments in lieu of taxes provided 55798
for in section 5709.42 of the Revised Code shall be paid to the 55799
city, local, or exempted village school district in which the 55800
parcel is located in the amount of the taxes that would have been 55801
payable to the school district if the improvements had not been 55802
exempted from taxation, the percentage of the improvement that may 55803
be exempted from taxation may exceed seventy-five per cent, and 55804
the exemption may be granted for up to thirty years, without the 55805
approval of the board of education as otherwise required under 55806
division (C)(2) of this section. 55807

(2) Improvements may be exempted from taxation for up to ten 55808
years or, with the approval of the board of education of the city, 55809
local, or exempted village school district within the territory of 55810
which the improvements are or will be located, for up to thirty 55811
years. The percentage of the improvement exempted from taxation 55812
may, with such approval, exceed seventy-five per cent, but shall 55813

not exceed one hundred per cent. Not later than forty-five
business days prior to adopting an ordinance under this section
that is subject to approval by a board of education under this
division, the legislative authority shall deliver to the board of
education a notice stating its intent to declare improvements to
be a public purpose under this section. The notice shall describe
the parcel and the improvements, provide an estimate of the true
value in money of the improvements, specify the period for which
the improvements would be exempted from taxation and the
percentage of the improvements that would be exempted, and
indicate the date on which the legislative authority intends to
adopt the ordinance. The board of education, by resolution adopted
by a majority of the board, may approve the exemption for the
period or for the exemption percentage specified in the notice,
may disapprove the exemption for the number of years in excess of
ten, may disapprove the exemption for the percentage of the
improvements to be exempted in excess of seventy-five per cent, or
both, or may approve the exemption on the condition that the
legislative authority and the board negotiate an agreement
providing for compensation to the school district equal in value
to a percentage of the amount of taxes exempted in the eleventh
and subsequent years of the exemption period, or, in the case of
exemption percentages in excess of seventy-five per cent,
compensation equal in value to a percentage of the taxes that
would be payable on the portion of the improvement in excess of
seventy-five per cent were that portion to be subject to taxation,
or other mutually agreeable compensation. The board of education
shall certify its resolution to the legislative authority not
later than fourteen days prior to the date the legislative
authority intends to adopt the ordinance as indicated in the
notice. ~~If the board of education approves the exemption on the
condition that a compensation agreement be negotiated, the board
in its resolution shall propose a compensation percentage.~~ If the

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board of education and the legislative authority negotiate a 55847
mutually acceptable compensation agreement, the ordinance may 55848
declare the improvements a public purpose for the number of years 55849
specified in the ordinance or, in the case of exemption 55850
percentages in excess of seventy-five per cent, for the exemption 55851
percentage specified in the ordinance. In either case, if the 55852
board and the legislative authority fail to negotiate a mutually 55853
acceptable compensation agreement, the ordinance may declare the 55854
improvements a public purpose for not more than ten years, but 55855
shall not exempt more than seventy-five per cent of the 55856
improvements from taxation. If the board fails to certify a 55857
resolution to the legislative authority within the time prescribed 55858
by this division, the legislative authority thereupon may adopt 55859
the ordinance and may declare the improvements a public purpose 55860
for up to thirty years. The legislative authority may adopt the 55861
ordinance at any time after the board of education certifies its 55862
resolution approving the exemption to the legislative authority, 55863
or, if the board approves the exemption on the condition that a 55864
mutually acceptable compensation agreement be negotiated, at any 55865
time after the compensation agreement is agreed to by the board 55866
and the legislative authority. 55867

(3) If a board of education has adopted a resolution waiving 55868
its right to approve exemptions from taxation and the resolution 55869
remains in effect, approval of exemptions by the board is not 55870
required under this division. If a board of education has adopted 55871
a resolution allowing a legislative authority to deliver the 55872
notice required under ~~this~~ division (C)(2) of this section fewer 55873
than forty-five business days prior to the legislative authority's 55874
adoption of the ordinance, the legislative authority shall deliver 55875
the notice to the board not later than the number of days prior to 55876
such adoption as prescribed by the board in its resolution. If a 55877
board of education adopts a resolution waiving its right to 55878
approve exemptions or shortening the notification period, the 55879

board shall certify a copy of the resolution to the legislative 55880
authority. If the board of education rescinds such a resolution, 55881
it shall certify notice of the rescission to the legislative 55882
authority. 55883

(4) If the legislative authority is not required by division 55884
(C)(1), (2), or (3) of this section to notify the board of 55885
education of the legislative authority's intent to declare 55886
improvements to be a public purpose, the legislative authority 55887
shall comply with the notice requirements imposed under section 55888
5709.83 of the Revised Code, unless the board has adopted a 55889
resolution under that section waiving its right to receive such a 55890
notice. 55891

(D) ~~The~~ An exemption from taxation granted under this section 55892
commences on with the tax year specified in the ordinance that 55893
begins after the effective date of the ordinance and ends on the 55894
date specified in the ordinance as the date the improvement ceases 55895
to be a public purpose. The exemption shall be claimed and allowed 55896
in the same or a similar manner as in the case of other real 55897
property exemptions. If an exemption status changes during a tax 55898
year, the procedure for the apportionment of the taxes for that 55899
year is the same as in the case of other changes in tax exemption 55900
status during the year. 55901

(E) A municipal corporation, not later than fifteen days 55902
after the adoption of an ordinance granting a tax exemption under 55903
this section, shall submit to the director of development a copy 55904
of the ordinance. On or before the thirty-first day of March each 55905
year, the municipal corporation shall submit a status report to 55906
the director of development outlining the progress of the project 55907
during each year that the exemption remains in effect. 55908

Sec. 5709.73. (A) As used in this section and section 5709.74 55909
of the Revised Code: 55910

(1) "Business day" means a day of the week excluding 55911
Saturday, Sunday, and a legal holiday as defined in section 1.14 55912
of the Revised Code. 55913

(2) "Further improvements" or "improvements" means the 55914
increase in the ~~true~~ assessed value of real property that would 55915
first appear on the tax list and duplicate of real and public 55916
utility property after the effective date of a resolution adopted 55917
under this section were it not for the exemption granted by that 55918
resolution. For purposes of division (B) of this section, 55919
"improvements" do not include any property used or to be used for 55920
residential purposes. 55921

(3) "Housing renovation" means a project carried out for 55922
residential purposes. 55923

(4) "Incentive district" has the same meaning as in section 55924
5709.40 of the Revised Code, except that a blighted area is in the 55925
unincorporated area of a township. 55926

(5) "Project" and "public infrastructure improvement" have 55927
the same meanings as in section 5709.40 of the Revised Code. 55928

(B) A board of township trustees may, by unanimous vote, 55929
adopt a resolution that declares to be a public purpose any public 55930
infrastructure improvements made that are necessary for the 55931
development of certain parcels of land located in the 55932
unincorporated area of the township. Except as otherwise provided 55933
in division (D) of this section, the resolution may exempt from 55934
real property taxation not more than seventy-five per cent of 55935
further improvements to a parcel of land which directly benefits 55936
from such public infrastructure improvements; ~~the percentage~~ 55937
~~exempted shall not, except as otherwise provided in division (D)~~ 55938
~~of this section, exceed the estimated percentage of the~~ 55939
~~incremental demand placed on the public infrastructure~~ 55940
~~improvements that is directly attributable to the exempted~~ 55941

~~improvement. For the purposes of this division, a public~~ 55942
~~infrastructure improvement directly benefits a parcel of land only~~ 55943
~~if a project on the parcel places direct, additional demand on the~~ 55944
~~public infrastructure improvement, or, if the public~~ 55945
~~infrastructure improvement has not yet been constructed, will~~ 55946
~~place direct, additional demand on the public infrastructure~~ 55947
~~improvement when completed. The resolution shall specify the~~ 55948
percentage of the further improvements to be exempted. 55949

(C) A board of township trustees may adopt, by unanimous 55950
vote, a resolution creating an incentive district and declaring 55951
improvements to parcels within the district to be a public purpose 55952
and exempt from taxation as provided in this section. The district 55953
shall be located within the unincorporated area of the township 55954
and shall not include any territory that is included within a 55955
district created under division (B) of section 5709.78 of the 55956
Revised Code. The resolution shall delineate the boundary of the 55957
district and specifically identify each parcel within the 55958
district. A district may not include any parcel that is or has 55959
been exempted from taxation under division (B) of this section or 55960
that is or has been within another district created under this 55961
division. A resolution may create more than one such district, and 55962
more than one resolution may be adopted under this division. 55963

Not later than thirty days prior to adopting a resolution 55964
under this division, if the township intends to apply for 55965
exemptions from taxation under section 5709.911 of the Revised 55966
Code on behalf of owners of real property located within the 55967
proposed incentive district, the board shall conduct a public 55968
hearing on the proposed resolution. Not later than thirty days 55969
prior to the public hearing, the board shall give notice of the 55970
public hearing and the proposed resolution by first class mail to 55971
every real property owner whose property is located within the 55972
boundaries of the proposed incentive district that is the subject 55973

of the proposed resolution. 55974

A resolution under this division shall specify the life of 55975
the district and the percentage of the improvements to be exempted 55976
and shall designate the public infrastructure improvements made or 55977
to be made that benefit or serve parcels in the district. 55978

A resolution adopted under this division may authorize the 55979
use of service payments provided for in section 5709.74 of the 55980
Revised Code for the purpose of housing renovations within the 55981
district, provided that the resolution also designates public 55982
infrastructure improvements that benefit or serve the district, 55983
and that a project within the district places real property in use 55984
for commercial or industrial purposes. Service payments may be 55985
used to finance or support loans, deferred loans, and grants to 55986
persons for the purpose of housing renovations within the 55987
district. The resolution shall designate the parcels within the 55988
district that are eligible for housing renovations. The resolution 55989
shall state separately the amount or the percentages of the 55990
expected aggregate service payments that are designated for each 55991
public infrastructure improvement and for the purpose of housing 55992
renovations. 55993

Except with the approval of the board of education of each 55994
city, local, or exempted village school district within the 55995
territory of which the district is or will be located, the life of 55996
a district shall not exceed ten years, and the percentage of 55997
improvements to be exempted shall not exceed seventy-five per 55998
cent. With such approval, the life of a district may be not more 55999
than thirty years, and the percentage of improvements to be 56000
exempted may be not more than one hundred per cent. 56001

Approval of a board of education shall be obtained in the 56002
manner provided in division (D) of this section for exemptions 56003
under division (B) of this section, except that the notice to the 56004

board of education shall delineate the boundaries of the district, 56005
specifically identify each parcel within the district, identify 56006
each anticipated improvement in the district, provide an estimate 56007
of the true value in money of each such improvement, specify the 56008
life of the district and the percentage of improvements that would 56009
be exempted, and indicate the date on which the board of township 56010
trustees intends to adopt the resolution. 56011

A board of township trustees shall not adopt a resolution 56012
under this division after June 30, ~~2007~~ 2005. 56013

(D)(1) If the resolution declaring improvements to a parcel 56014
to be a public purpose or creating an incentive district specifies 56015
that payments in lieu of taxes provided for in section 5709.74 of 56016
the Revised Code shall be paid to the city, local, or exempted 56017
village school district in which the parcel is located in the 56018
amount of the taxes that would have been payable to the school 56019
district if the improvements had not been exempted from taxation, 56020
the percentage of the improvement that may be exempted from 56021
taxation may exceed seventy-five per cent, and the exemption may 56022
be granted for up to thirty years, without the approval of the 56023
board of education as otherwise required under division (D)(2) of 56024
this section. 56025

(2) Improvements with respect to a parcel may be exempted 56026
from taxation under division (B) of this section for up to ten 56027
years or, with the approval of the board of education of the city, 56028
local, or exempted village school district within which the parcel 56029
is located, for up to thirty years. The percentage of the 56030
improvements exempted from taxation may, with such approval, 56031
exceed seventy-five per cent, but shall not exceed one hundred per 56032
cent. Not later than forty-five business days prior to adopting a 56033
resolution under this section declaring improvements to be a 56034
public purpose that is subject to approval by a board of education 56035
under this division, the board of trustees shall deliver to the 56036

board of education a notice stating its intent to adopt a 56037
resolution making that declaration. The notice shall identify the 56038
parcels for which improvements are to be exempted from taxation, 56039
provide an estimate of the true value in money of the 56040
improvements, specify the period for which the improvements would 56041
be exempted from taxation and the percentage of the improvements 56042
that would be exempted, and indicate the date on which the board 56043
of trustees intends to adopt the resolution. The board of 56044
education, by resolution adopted by a majority of the board, may 56045
approve the exemption for the period or for the exemption 56046
percentage specified in the notice, may disapprove the exemption 56047
for the number of years in excess of ten, may disapprove the 56048
exemption for the percentage of the improvements to be exempted in 56049
excess of seventy-five per cent, or both, or may approve the 56050
exemption on the condition that the board of trustees and the 56051
board of education negotiate an agreement providing for 56052
compensation to the school district equal in value to a percentage 56053
of the amount of taxes exempted in the eleventh and subsequent 56054
years of the exemption period or, in the case of exemption 56055
percentages in excess of seventy-five per cent, compensation equal 56056
in value to a percentage of the taxes that would be payable on the 56057
portion of the improvements in excess of seventy-five per cent 56058
were that portion to be subject to taxation, or other mutually 56059
agreeable compensation. The board of education shall certify its 56060
resolution to the board of trustees not later than fourteen days 56061
prior to the date the board of trustees intends to adopt the 56062
resolution as indicated in the notice. ~~If the board of education~~ 56063
~~approves the exemption on the condition that a compensation~~ 56064
~~agreement be negotiated, the board of education in its resolution~~ 56065
~~shall propose a compensation percentage.~~ If the board of education 56066
and the board of trustees negotiate a mutually acceptable 56067
compensation agreement, the resolution may declare the 56068
improvements a public purpose for the number of years specified in 56069

the resolution or, in the case of exemption percentages in excess 56070
of seventy-five per cent, for the exemption percentage specified 56071
in the resolution. In either case, if the board of education and 56072
the board of trustees fail to negotiate a mutually acceptable 56073
compensation agreement, the resolution may declare the 56074
improvements a public purpose for not more than ten years, but 56075
shall not exempt more than seventy-five per cent of the 56076
improvements from taxation, ~~or, in the case of a resolution~~ 56077
~~adopted under division (B) of this section, not more than the~~ 56078
~~estimated percentage of the incremental demand as otherwise~~ 56079
~~prescribed by division (B) of this section if that percentage is~~ 56080
~~less than seventy five per cent.~~ If the board of education fails 56081
to certify a resolution to the board of trustees within the time 56082
prescribed by this section, the board of trustees thereupon may 56083
adopt the resolution and may declare the improvements a public 56084
purpose for up to thirty years or, in the case of exemption 56085
percentages proposed in excess of seventy-five per cent, for the 56086
exemption percentage specified in the resolution. The board of 56087
township trustees may adopt the resolution at any time after the 56088
board of education certifies its resolution approving the 56089
exemption to the board of township trustees, or, if the board of 56090
education approves the exemption on the condition that a mutually 56091
acceptable compensation agreement be negotiated, at any time after 56092
the compensation agreement is agreed to by the board of education 56093
and the board of township trustees. 56094

(3) If a board of education has adopted a resolution waiving 56095
its right to approve exemptions from taxation and the resolution 56096
remains in effect, approval of such exemptions by the board of 56097
education is not required under this division. If a board of 56098
education has adopted a resolution allowing a board of township 56099
trustees to deliver the notice required under ~~this~~ division (D)(2) 56100
of this section fewer than forty-five business days prior to 56101
adoption of the resolution by the board of township trustees, the 56102

board of township trustees shall deliver the notice to the board 56103
of education not later than the number of days prior to such 56104
adoption as prescribed by the board of education in its 56105
resolution. If a board of education adopts a resolution waiving 56106
its right to approve exemptions or shortening the notification 56107
period, the board of education shall certify a copy of the 56108
resolution to the board of township trustees. If the board of 56109
education rescinds such a resolution, it shall certify notice of 56110
the rescission to the board of township trustees. 56111

If the board of trustees is not required by this division to 56112
notify the board of education of the board of trustees' intent to 56113
declare improvements to be a public purpose, the board of trustees 56114
shall comply with the notice requirements imposed under section 56115
5709.83 of the Revised Code before taking formal action to adopt 56116
the resolution making that declaration, unless the board of 56117
education has adopted a resolution under that section waiving its 56118
right to receive such a notice. 56119

(E) An exemption from taxation granted under this section 56120
~~commences with the tax year in which an improvement first appears~~ 56121
~~on the tax list and duplicate of real and public utility property~~ 56122
~~and specified in the resolution~~ that begins after the effective 56123
date of the resolution. Except as otherwise provided in this 56124
division, the exemption ends on the date specified in the 56125
resolution as the date the improvement ceases to be a public 56126
purpose or the incentive district expires, or ends on the date on 56127
which the public infrastructure improvements and housing 56128
renovations are paid in full from the township public improvement 56129
tax increment equivalent fund established under section 5709.75 of 56130
the Revised Code, whichever occurs first. The exemption of an 56131
improvement with respect to a parcel may end on a later date, as 56132
specified in the resolution, if the board of township trustees and 56133
the board of education of the city, local, or exempted village 56134

school district within which the parcel is located have entered 56135
into a compensation agreement under section 5709.82 of the Revised 56136
Code with respect to the improvement or district and the board of 56137
education has approved the term of the exemption under division 56138
(D)(2) of this section, but in no case shall the improvement be 56139
exempted from taxation for more than thirty years. The board of 56140
township trustees may, by majority vote, adopt a resolution 56141
permitting the township to enter into such agreements as the board 56142
finds necessary or appropriate to provide for the construction or 56143
undertaking of public infrastructure improvements and housing 56144
renovations. Any exemption shall be claimed and allowed in the 56145
same or a similar manner as in the case of other real property 56146
exemptions. If an exemption status changes during a tax year, the 56147
procedure for the apportionment of the taxes for that year is the 56148
same as in the case of other changes in tax exemption status 56149
during the year. 56150

(F) The board of township trustees may issue the notes of the 56151
township to finance all costs pertaining to the construction or 56152
undertaking of public infrastructure improvements and housing 56153
renovations made pursuant to this section. The notes shall be 56154
signed by the board and attested by the signature of the township 56155
clerk, shall bear interest not to exceed the rate provided in 56156
section 9.95 of the Revised Code, and are not subject to Chapter 56157
133. of the Revised Code. The resolution authorizing the issuance 56158
of the notes shall pledge the funds of the township public 56159
improvement tax increment equivalent fund established pursuant to 56160
section 5709.75 of the Revised Code to pay the interest on and 56161
principal of the notes. The notes, which may contain a clause 56162
permitting prepayment at the option of the board, shall be offered 56163
for sale on the open market or given to the vendor or contractor 56164
if no sale is made. 56165

(G) The township, not later than fifteen days after the 56166

adoption of a resolution under this section, shall submit to the 56167
director of development a copy of the resolution. On or before the 56168
thirty-first day of March of each year, the township shall submit 56169
a status report to the director of development. The report shall 56170
indicate, in the manner prescribed by the director, the progress 56171
of the project during each year that the exemption remains in 56172
effect, including a summary of the receipts from service payments 56173
in lieu of taxes; expenditures of money from funds created under 56174
section 5709.75 of the Revised Code; a description of the public 56175
infrastructure improvements and housing renovations financed with 56176
such expenditures; and a quantitative summary of changes in 56177
private investment resulting from each project. 56178

(H) Nothing in this section shall be construed to prohibit a 56179
board of township trustees from declaring to be a public purpose 56180
improvements with respect to more than one parcel. 56181

(I) A board of township trustees that adopted a resolution 56182
under this section prior to July 21, 1994, may amend that 56183
resolution to include any additional public infrastructure 56184
improvement. A board of township trustees that seeks by such an 56185
amendment to utilize money from its township public improvement 56186
tax increment equivalent fund for land acquisition in aid of 56187
industry, commerce, distribution, or research, demolition on 56188
private property, or stormwater and flood remediation projects may 56189
do so provided that the board currently is a party to a 56190
hold-harmless agreement with the board of education of the city, 56191
local, or exempted village school district within the territory of 56192
which are located the parcels that are subject to an exemption. 56193
For the purposes of this division, a "hold-harmless agreement" 56194
means an agreement under which the board of township trustees 56195
agrees to compensate the school district for one hundred per cent 56196
of the tax revenue that the school district would have received 56197
from further improvements to parcels designated in the resolution 56198

were it not for the exemption granted by the resolution. 56199

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the 56200
Revised Code: 56201

(A) "Business day" means a day of the week excluding 56202
Saturday, Sunday, and a legal holiday as defined in section 1.14 56203
of the Revised Code. 56204

(B) "Fund" means to provide for the payment of the debt 56205
service on and the expenses relating to an outstanding obligation 56206
of the county. 56207

(C) "Housing renovation" means a project carried out for 56208
residential purposes. 56209

(D) "Improvement" means the increase in the ~~true~~ assessed 56210
value of real property that would first appear on the tax list and 56211
duplicate of real and public utility property after the effective 56212
date of a resolution adopted under section 5709.78 of the Revised 56213
Code were it not for the exemption granted by that resolution. 56214
~~"Improvement" does not include a public infrastructure~~ 56215
~~improvement.~~ For purposes of division (A) of section 5709.78 of 56216
the Revised Code, "improvement" does not include any property used 56217
or to be used for residential purposes. 56218

(E) "Incentive district" has the same meaning as in section 56219
5709.40 of the Revised Code, except that a blighted area is in the 56220
unincorporated territory of a county. 56221

(F) "Refund" means to fund and retire an outstanding 56222
obligation of the county. 56223

(G) "Project" and "public infrastructure improvement" have 56224
the same meanings as in section 5709.40 of the Revised Code. 56225

Sec. 5709.78. (A) A board of county commissioners may, by 56226
resolution, declare improvements to certain parcels of real 56227

property located in the unincorporated territory of the county to 56228
be a public purpose. Except as otherwise provided in division (C) 56229
of this section, not more than seventy-five per cent of an 56230
improvement thus declared to be a public purpose may be exempted 56231
from real property taxation; ~~the percentage exempted shall not,~~ 56232
~~except as otherwise provided in those divisions, exceed the~~ 56233
~~estimated percentage of the incremental demand placed on the~~ 56234
~~public infrastructure improvements that is directly attributable~~ 56235
~~to the exempted improvement.~~ The resolution shall specify the 56236
percentage of the improvement to be exempted. 56237

A resolution adopted under this division shall designate the 56238
specific public infrastructure improvements made, to be made, or 56239
in the process of being made by the county that directly benefit, 56240
or that once made will directly benefit, the parcels for which 56241
improvements are declared to be a public purpose. ~~For the purposes~~ 56242
~~of this division, a public infrastructure improvement directly~~ 56243
~~benefits such a parcel only if a project on the parcel places~~ 56244
~~direct, additional demand on the public infrastructure improvement~~ 56245
~~or, if the public infrastructure improvement has not yet been~~ 56246
~~completed, will place direct, additional demand on the public~~ 56247
~~infrastructure improvement once it is completed.~~ The service 56248
payments provided for in section 5709.79 of the Revised Code shall 56249
be used to finance the public infrastructure improvements 56250
designated in the resolution. 56251

(B) A board of county commissioners may adopt a resolution 56252
creating an incentive district and declaring improvements to 56253
parcels within the district to be a public purpose and exempt from 56254
taxation as provided in this section. The district shall be 56255
located within the unincorporated territory of the county and 56256
shall not include any territory that is included within a district 56257
created under division (C) of section 5709.73 of the Revised Code. 56258
The resolution shall delineate the boundary of the district and 56259

specifically identify each parcel within the district. A district
may not include any parcel that is or has been exempted from
taxation under division (A) of this section or that is or has been
within another district created under this division. A resolution
may create more than one such district, and more than one
resolution may be adopted under this division.

Not later than thirty days prior to adopting a resolution
under this division, if the county intends to apply for exemptions
from taxation under section 5709.911 of the Revised Code on behalf
of owners of real property located within the proposed incentive
district, the board of county commissioners shall conduct a public
hearing on the proposed resolution. Not later than thirty days
prior to the public hearing, the board shall give notice of the
public hearing and the proposed resolution by first class mail to
every real property owner whose property is located within the
boundaries of the proposed incentive district that is the subject
of the proposed resolution. The board also shall provide the
notice by first class mail to the clerk of each township in which
the proposed incentive district will be located.

A resolution under this division shall specify the life of
the district and the percentage of the improvements to be exempted
and shall designate the public infrastructure improvements made or
to be made that benefit or serve parcels in the district.

A resolution adopted under this division may authorize the
use of service payments provided for in section 5709.79 of the
Revised Code for the purpose of housing renovations within the
district, provided that the resolution also designates public
infrastructure improvements that benefit or serve the district,
and that a project within the district places real property in use
for commercial or industrial purposes. Service payments may be
used to finance or support loans, deferred loans, and grants to
persons for the purpose of housing renovations within the

district. The resolution shall designate the parcels within the 56292
district that are eligible for housing renovations. The resolution 56293
shall state separately the amount or the percentages of the 56294
expected aggregate service payments that are designated for each 56295
public infrastructure improvement and for the purpose of housing 56296
renovations. 56297

Except with the approval of the board of education of each 56298
city, local, or exempted village school district within the 56299
territory of which the district is or will be located, the life of 56300
a district shall not exceed ten years, and the percentage of 56301
improvements to be exempted shall not exceed seventy-five per 56302
cent. With such approval, the life of a district may be not more 56303
than thirty years, and the percentage of improvements to be 56304
exempted may be not more than one hundred per cent. 56305

Approval of a board of education shall be obtained in the 56306
manner provided in division (C) of this section for exemptions 56307
under division (A) of this section, except that the notice to the 56308
board of education shall delineate the boundaries of the district, 56309
specifically identify each parcel within the district, identify 56310
each anticipated improvement in the district, provide an estimate 56311
of the true value in money of each such improvement, specify the 56312
life of the district and the percentage of improvements that would 56313
be exempted, and indicate the date on which the board of county 56314
commissioners intends to adopt the resolution. 56315

A board of county commissioners shall not adopt a resolution 56316
under this division after June 30, ~~2007~~ 2005. 56317

(C)(1) If the resolution declaring improvements to a parcel 56318
to be a public purpose or creating an incentive district specifies 56319
that payments in lieu of taxes provided for in section 5709.79 of 56320
the Revised Code shall be paid to the city, local, or exempted 56321
village school district in which the parcel is located in the 56322

amount of the taxes that would have been payable to the school 56323
district if the improvements had not been exempted from taxation, 56324
the percentage of the improvement that may be exempted from 56325
taxation may exceed seventy-five per cent, and the exemption may 56326
be granted for up to thirty years, without the approval of the 56327
board of education as otherwise required under division (C)(2) of 56328
this section. 56329

(2) Improvements with respect to a parcel may be exempted 56330
from taxation under division (A) of this section for up to ten 56331
years or, with the approval of the board of education of the city, 56332
local, or exempted village school district within which the parcel 56333
is located, for up to thirty years. The percentage of the 56334
improvements exempted from taxation may, with such approval, 56335
exceed seventy-five per cent, but shall not exceed one hundred per 56336
cent. Not later than forty-five business days prior to adopting a 56337
resolution under this section declaring improvements to be a 56338
public purpose that is subject to the approval of a board of 56339
education under this division, the board of county commissioners 56340
shall deliver to the board of education a notice stating its 56341
intent to adopt a resolution making that declaration. The notice 56342
shall identify the parcels for which improvements are to be 56343
exempted from taxation, provide an estimate of the true value in 56344
money of the improvements, specify the period for which the 56345
improvements would be exempted from taxation and the percentage of 56346
the improvements that would be exempted, and indicate the date on 56347
which the board of county commissioners intends to adopt the 56348
resolution. The board of education, by resolution adopted by a 56349
majority of the board, may approve the exemption for the period or 56350
for the exemption percentage specified in the notice, may 56351
disapprove the exemption for the number of years in excess of ten, 56352
may disapprove the exemption for the percentage of the 56353
improvements to be exempted in excess of seventy-five per cent, or 56354
both, or may approve the exemption on the condition that the board 56355

of county commissioners and the board of education negotiate an 56356
agreement providing for compensation to the school district equal 56357
in value to a percentage of the amount of taxes exempted in the 56358
eleventh and subsequent years of the exemption period or, in the 56359
case of exemption percentages in excess of seventy-five per cent, 56360
compensation equal in value to a percentage of the taxes that 56361
would be payable on the portion of the improvements in excess of 56362
seventy-five per cent were that portion to be subject to taxation, 56363
or other mutually agreeable compensation. The board of education 56364
shall certify its resolution to the board of county commissioners 56365
not later than fourteen days prior to the date the board of county 56366
commissioners intends to adopt its resolution as indicated in the 56367
notice. ~~If the board of education approves the exemption on the~~ 56368
~~condition that a compensation agreement be negotiated, the board~~ 56369
~~of education in its resolution shall propose a compensation~~ 56370
~~percentage.~~ If the board of education and the board of county 56371
commissioners negotiate a mutually acceptable compensation 56372
agreement, the resolution of the board of county commissioners may 56373
declare the improvements a public purpose for the number of years 56374
specified in that resolution or, in the case of exemption 56375
percentages in excess of seventy-five per cent, for the exemption 56376
percentage specified in the resolution. In either case, if the 56377
board of education and the board of county commissioners fail to 56378
negotiate a mutually acceptable compensation agreement, the 56379
resolution may declare the improvements a public purpose for not 56380
more than ten years, but shall not exempt more than seventy-five 56381
per cent of the improvements from taxation, ~~or, in the case of a~~ 56382
~~resolution adopted under division (A) of this section, not more~~ 56383
~~than the estimated percentage of the incremental demand as~~ 56384
~~otherwise prescribed by division (A) of this section if that~~ 56385
~~percentage is less than seventy five per cent.~~ If the board of 56386
education fails to certify a resolution to the board of county 56387
commissioners within the time prescribed by this section, the 56388

board of county commissioners thereupon may adopt the resolution 56389
and may declare the improvements a public purpose for up to thirty 56390
years or, in the case of exemption percentages proposed in excess 56391
of seventy-five per cent, for the exemption percentage specified 56392
in the resolution. The board of county commissioners may adopt the 56393
resolution at any time after the board of education certifies its 56394
resolution approving the exemption to the board of county 56395
commissioners, or, if the board of education approves the 56396
exemption on the condition that a mutually acceptable compensation 56397
agreement be negotiated, at any time after the compensation 56398
agreement is agreed to by the board of education and the board of 56399
county commissioners. 56400

~~(2)~~(3) If a board of education has adopted a resolution 56401
waiving its right to approve exemptions from taxation and the 56402
resolution remains in effect, approval of such exemptions by the 56403
board of education is not required under division (C)~~(1)~~(2) of 56404
this section. If a board of education has adopted a resolution 56405
allowing a board of county commissioners to deliver the notice 56406
required under division (C)~~(1)~~(2) of this section fewer than 56407
forty-five business days prior to approval of the resolution by 56408
the board of county commissioners, the board of county 56409
commissioners shall deliver the notice to the board of education 56410
not later than the number of days prior to such approval as 56411
prescribed by the board of education in its resolution. If a board 56412
of education adopts a resolution waiving its right to approve 56413
exemptions or shortening the notification period, the board of 56414
education shall certify a copy of the resolution to the board of 56415
county commissioners. If the board of education rescinds such a 56416
resolution, it shall certify notice of the rescission to the board 56417
of county commissioners. 56418

(D) An exemption from taxation granted under this section 56419
commences with the tax year ~~in which an improvement first appears~~ 56420

~~on the tax list and duplicate of real and public utility property~~ 56421
~~and specified in the resolution~~ that begins after the effective 56422
date of the resolution. Except as otherwise provided in this 56423
division, the exemption ends on the date specified in the 56424
resolution as the date the improvement ceases to be a public 56425
purpose or the incentive district expires, or ends on the date on 56426
which the county can no longer require annual service payments in 56427
lieu of taxes under section 5709.79 of the Revised Code, whichever 56428
occurs first. The exemption of an improvement with respect to a 56429
parcel may end on a later date, as specified in the resolution, if 56430
the board of commissioners and the board of education of the city, 56431
local, or exempted village school district within which the parcel 56432
is located have entered into a compensation agreement under 56433
section 5709.82 of the Revised Code with respect to the 56434
improvement or district and the board of education has approved 56435
the term of the exemption under division (C)~~(1)~~(2) of this 56436
section, but in no case shall the improvement be exempted from 56437
taxation for more than thirty years. Exemptions shall be claimed 56438
and allowed in the same or a similar manner as in the case of 56439
other real property exemptions. If an exemption status changes 56440
during a tax year, the procedure for the apportionment of the 56441
taxes for that year is the same as in the case of other changes in 56442
tax exemption status during the year. 56443

(E) If the board of county commissioners is not required by 56444
this section to notify the board of education of the board of 56445
county commissioners' intent to declare improvements to be a 56446
public purpose, the board of county commissioners shall comply 56447
with the notice requirements imposed under section 5709.83 of the 56448
Revised Code before taking formal action to adopt the resolution 56449
making that declaration, unless the board of education has adopted 56450
a resolution under that section waiving its right to receive such 56451
a notice. 56452

(F) The county, not later than fifteen days after the 56453
adoption of a resolution under this section, shall submit to the 56454
director of development a copy of the resolution. On or before the 56455
thirty-first day of March of each year, the county shall submit a 56456
status report to the director of development. The report shall 56457
indicate, in the manner prescribed by the director, the progress 56458
of the project during each year that an exemption remains in 56459
effect, including a summary of the receipts from service payments 56460
in lieu of taxes; expenditures of money from funds created under 56461
section 5709.75 of the Revised Code; a description of the public 56462
infrastructure improvements and housing renovations financed with 56463
such expenditures; and a quantitative summary of changes in 56464
employment and private investment resulting from each project. 56465

(G) Nothing in this section shall be construed to prohibit a 56466
board of county commissioners from declaring to be a public 56467
purpose improvements with respect to more than one parcel. 56468

Sec. 5711.21. (A) In assessing taxable property the assessor 56469
shall be governed by the rules of assessment prescribed by 56470
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 56471
taxable property is required to be assessed at its true value in 56472
money or at any percentage of true value, the assessor shall be 56473
guided by the statements contained in the taxpayer's return and 56474
such other rules and evidence as will enable the assessor to 56475
arrive at such true value. Wherever the income yield of taxable 56476
property is required to be assessed, and the method of determining 56477
between income and return or distribution of principal, or that of 56478
allocating expenses in determining net income, or that of 56479
ascertaining the source from which partial distributions of income 56480
have been made is not expressly prescribed by sections 5711.01 to 56481
5711.36 of the Revised Code, the assessor shall be guided by the 56482
statements contained in the taxpayer's return and such general 56483

rules as the tax commissioner adopts to enable the assessor to 56484
make such determination. 56485

(B) The true value of the boilers, machinery, equipment, and 56486
any personal property used to generate or distribute ~~the~~ 56487
electricity shall be: 56488

(1) For tax years before tax year 2006, the sum of the 56489
following: 56490

~~(1)~~(a) The true value of the property as it would be 56491
determined under this chapter if none of the electricity were 56492
distributed to others multiplied by the per cent of the 56493
electricity generated in the preceding calendar year that was used 56494
by the person who generated it; plus 56495

~~(2)~~(b) The true value of the property that is production 56496
equipment as it would be determined for an electric company under 56497
section 5727.11 of the Revised Code multiplied by the per cent of 56498
the electricity generated in the preceding calendar year that was 56499
not used by the person who generated it; plus 56500

~~(3)~~(c) The true value of the property that is not production 56501
equipment as it would be determined for an electric company under 56502
section 5727.11 of the Revised Code multiplied by the per cent of 56503
the electricity generated in the preceding calendar year that was 56504
not used by the person who generated it. 56505

(2) For tax year 2006 and each tax year thereafter, the true 56506
value of the property as it would be determined under this chapter 56507
if none of the electricity were distributed to others multiplied 56508
by the per cent of the electricity generated in the preceding 56509
calendar year that was used by the person who generated it. 56510

(C) ~~The~~ For tax years before tax year 2006, the true value of 56511
personal property leased to a public utility or interexchange 56512
telecommunications company as defined in section 5727.01 of the 56513
Revised Code and used by the utility or interexchange 56514

telecommunications company directly in the rendition of a public 56515
utility service as defined in division (P) of section 5739.01 of 56516
the Revised Code shall be determined in the same manner that the 56517
true value of such property is determined under section 5727.11 of 56518
the Revised Code if owned by the public utility or interexchange 56519
telecommunications company. 56520

Sec. 5711.22. (A) Deposits not taxed at the source shall be 56521
listed and assessed at their amount in dollars on the day they are 56522
required to be listed. Moneys shall be listed and assessed at the 56523
amount thereof in dollars on hand on the day that they are 56524
required to be listed. In listing investments, the amount of the 56525
income yield of each for the calendar year next preceding the date 56526
of listing shall, except as otherwise provided in this chapter, be 56527
stated in dollars and cents and the assessment thereof shall be at 56528
the amount of such income yield; but any property defined as 56529
investments in either division (A) or (B) of section 5701.06 of 56530
the Revised Code that has not been outstanding for the full 56531
calendar year next preceding the date of listing, except shares of 56532
stock of like kind as other shares of the same corporation 56533
outstanding for the full calendar year next preceding the date of 56534
listing, or which has yielded no income during such calendar year 56535
shall be listed and assessed as unproductive investments, at their 56536
true value in money on the day that such investments are required 56537
to be listed. 56538

Credits and other taxable intangibles shall be listed and 56539
assessed at their true value in money on the day as of which the 56540
same are required to be listed. 56541

Shares of stock of a bank holding company, as defined in 56542
Title 12 U.S.C.A., section 1841, that are required to be listed 56543
for taxation under this division and upon which dividends were 56544
paid during the year of their issuance, which dividends are 56545

subject to taxation under the provisions of Chapter 5747. of the
Revised Code, shall be exempt from the intangibles tax for the
year immediately succeeding their issuance. If such shares bear
dividends the first calendar year after their issuance, which
dividends are subject to taxation under the provisions of Chapter
5747. of the Revised Code, it shall be deemed that the
nondelinquent intangible property tax pursuant to division (A) of
section 5707.04 of the Revised Code was paid on those dividends
paid that first calendar year after the issuance of the shares.

(B)~~(1)~~ Boilers, machinery, equipment, and personal property
the true value of which is determined under division (B) of
section 5711.21 of the Revised Code shall be listed and assessed
at an amount equal to:

(1) For tax years before tax year 2006, the sum of the
products determined under divisions (B)(1)(a), (b), and (c) of
this section.

(a) Multiply the portion of the true value ~~determined~~
calculated under division (B)(1)(a) of section 5711.21 of the
Revised Code by the assessment rate for the tax year in division
(F) of this section;

(b) Multiply the portion of the true value determined under
division (B)~~(2)~~(1)(b) of section 5711.21 of the Revised Code by
the assessment rate in section 5727.111 of the Revised Code that
is applicable to the production equipment of an electric company;

(c) Multiply the portion of the true value determined under
division (B)~~(3)~~(1)(c) of section 5711.21 of the Revised Code by
the assessment rate in section 5727.111 of the Revised Code that
is applicable to the property of an electric company that is not
production equipment.

(2) ~~Personal~~ For tax year 2006 and each tax year thereafter,
the product calculated by multiplying the portion of the true

value determined under division (B)(2) of section 5711.21 of the 56577
Revised Code by the assessment rate for that tax year in division 56578
(F) of this section. 56579

(C) For tax years before tax year 2006, personal property 56580
leased to a public utility or interexchange telecommunications 56581
company as defined in section 5727.01 of the Revised Code and used 56582
directly in the rendition of a public utility service as defined 56583
in division (P) of section 5739.01 of the Revised Code shall be 56584
listed and assessed at the same percentage of true value in money 56585
that such property is required to be assessed by section 5727.111 56586
of the Revised Code if owned by the public utility or 56587
interexchange telecommunications company. 56588

~~(C)(D)(1) Merchandise or an agricultural product shipped from~~ 56589
~~outside this state and held in this state in a warehouse or a~~ 56590
~~place of storage without further manufacturing or processing and~~ 56591
~~for storage only and for shipment outside this state, but that is~~ 56592
~~taxable because it does not qualify as "not used in business in~~ 56593
~~this state" under division (B)(1) or (2) of section 5701.08 of the~~ 56594
~~Revised Code, shall be listed and assessed at a rate of~~ 56595
~~twenty five one hundredths of its true value in money until~~ 56596
~~reduced in accordance with the following schedule:~~ 56597

~~(a) For any year, subtract five one hundredths from the rate~~ 56598
~~at which such property was required to be listed and assessed in~~ 56599
~~the preceding year, if the total statewide collection of all real~~ 56600
~~and tangible personal property taxes for the second preceding year~~ 56601
~~exceeded the total statewide collection of all real and tangible~~ 56602
~~personal property taxes for the third preceding year by more than~~ 56603
~~the greater of four per cent or the rate of increase from the~~ 56604
~~third to the second preceding years in the average consumer price~~ 56605
~~index (all urban consumers, all items) prepared by the bureau of~~ 56606
~~labor statistics of the United States department of labor;~~ 56607

~~(b) If no reduction in the assessment rate is made for a~~ 56608

year, the rate is the same as for the preceding year. 56609

~~(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~ 56610
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~~(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is nevertheless not used in business in this state for property tax purposes.~~ 56614
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~~(D)(1)(2) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty five one hundredths of its true value in money until reduced in accordance with the following schedule:~~ 56624
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~~(a) For any year, subtract five one hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than~~ 56634
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~~the greater of four per cent or the rate of increase from the
third to the second preceding years in the average consumer price
index (all urban consumers, all items) prepared by the bureau of
labor statistics of the United States department of labor;~~

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~~(b) If no reduction in the assessment rate is made for a
year, the rate is the same as for the preceding year.~~

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~~(2) Each year until the year the assessment rate equals zero,
the tax commissioner shall determine the assessment rate required
under this division and shall notify all county auditors of that
rate.~~

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~~(3) Notwithstanding provisions to the contrary in division
(B) of section 5701.08 of the Revised Code, during and after the
year for which the assessment rate as calculated under this
division equals zero, any merchandise or agricultural product
described in division (D)(1) of this section is nevertheless not
used in business in this state for property tax purposes.~~

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~~(4)(3) As used in division (D)(2) of this section:~~

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~~(a) "Qualified out-of-state person" means a person that does
not own, lease, or use property, other than merchandise or an
agricultural product described in this division, in this state,
and does not have employees, agents, or representatives in this
state;~~

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~~(b) "Public warehouse" means a warehouse in this state that
is not subject to the control of or under the supervision of the
owner of the merchandise or agricultural product stored in it, or
staffed by the owner's employees, and from which the property is
to be shipped inside this state.~~

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~~(E) Personal property valued pursuant to section 5711.15 of
the Revised Code and personal property required to be listed on
the average basis by division (A) of section 5711.16 of the~~

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Revised Code, except property described in division ~~(C)~~ or (D) of
this section, business fixtures, and furniture not held for sale
in the course of business, shall be listed and assessed at the
rate of ~~twenty five per cent~~ percentage of its true value in money
until reduced to zero in accordance with the following schedule:

(1) ~~Beginning in tax year 2002 and for each of tax years 2003
and 2004, subtract one percentage point from the rate at which the
property was required to be listed and assessed in the preceding
year, if the total statewide collection of tangible personal
property taxes for the second preceding year exceeded the total
statewide collection of tangible personal property taxes for the
third preceding year. If no reduction in the assessment rate is
made for a year, the rate is the same as for the preceding year.~~

~~(2) In For tax years 2005 and 2006, the assessment rate shall
be reduced by two percentage points, if the total statewide
collection of tangible personal property taxes for the second
preceding year exceeded the total statewide collection of tangible
personal property taxes for the third preceding year. If no
reduction in the assessment rate is made for a year, the rate is
the same as for the preceding year twenty-three per cent of true
value.~~

~~(3)(2) For tax year 2007, twenty-one per cent of true value;~~

~~(3) For tax year 2008, fourteen per cent of true value;~~

~~(4) For tax year 2009, seven per cent of true value;~~

~~(5) For tax year 2010 and each tax year thereafter, the
assessment rate shall be reduced by two percentage points. During
and after the tax year that the assessment rate equals zero, the
property described in division (E) of this section shall not be
listed for taxation.~~

~~Each year until the year the assessment rate equals zero, the~~

~~tax commissioner shall determine the assessment rate required~~ 56700
~~under this division and shall notify all county auditors of that~~ 56701
~~rate.~~ 56702

~~For purposes of division (E) of this section, "total~~ 56703
~~statewide collection of tangible person property taxes" excludes~~ 56704
~~taxes collected from public utilities and interexchange~~ 56705
~~telecommunications companies on property that is determined to be~~ 56706
~~taxable pursuant to section 5727.06 of the Revised Code zero~~ 56707
~~percent of true value.~~ 56708

(F) All engines and machinery, and tools and implements, used 56709
or designed to be used in manufacturing as described in section 56710
5711.16 of the Revised Code, in mining, in stone plants and gravel 56711
plants, in laundries, towel, and linen supply and dry cleaning 56712
plants, and in radio and television broadcasting shall be listed 56713
and assessed at a percentage rate of its true value in money in 56714
accordance with the following schedule: 56715

(1) For all such property not previously used in business in 56716
this state by the owner thereof, or by related member or 56717
predecessor of the owner, other than as inventory, before January 56718
1, 2005, the assessment rate shall be zero per cent of true value; 56719

(2) For all other such property, the assessment rate for tax 56720
year 2005 shall be twenty-five per cent of true value, twelve and 56721
one-half per cent of true value for tax year 2006, and zero per 56722
cent of true value for tax year 2007 and each tax year thereafter. 56723

~~(F)~~(G) Unless otherwise provided by law, all other personal 56724
property used in business that has not been legally regarded as an 56725
improvement on land and considered in arriving at the value of the 56726
real property assessed for taxation shall be listed and assessed 56727
at ~~the rate of twenty-five per cent~~ a percentage rate of its true 56728
value in money in accordance with the following schedule: 56729

(1) For tax year 2005, twenty-five per cent of true value; 56730

(2) For tax year 2006, twenty per cent of true value; 56731

(3) For tax year 2007, fifteen per cent of true value; 56732

(4) For tax year 2008, ten per cent of true value; 56733

(5) For tax year 2009, five per cent of true value; 56734

(6) For tax year 2010 and each tax year thereafter, zero per cent of true value. 56735
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(H) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), or (G) of this section shall not be listed for taxation. 56737
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(I) Divisions (E), (F), and (G) of this section apply to the property of a person described in divisions (E)(3) to (11) of section 5751.01 of the Revised Code. Division (I) of this section does not prevent the application of the exemption of property from taxation under section 5725.25 or 5725.26 of the Revised Code. 56740
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Sec. 5713.08. (A) The county auditor shall make a list of all real and personal property in the auditor's county, including money, credits, and investments in bonds, stocks, or otherwise, ~~which that~~ is exempted from taxation. ~~Such The~~ list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which ~~such the~~ exemption has been granted. It shall be corrected annually by adding thereto the items of property ~~which that~~ have been exempted during the year, and by striking therefrom the items ~~which that~~ in the opinion of the auditor have lost their right of exemption and ~~which that~~ have been reentered on the taxable list. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax commissioner as is provided for in section 5715.27 of the Revised Code or without the consent of the housing officer under section 3735.67 of the Revised Code. When any personal property or

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endowment fund of an institution has once been held by the 56761
commissioner to be properly exempt from taxation, it is not 56762
necessary to obtain the commissioner's consent to the exemption of 56763
additional property or investments of the same kind belonging to 56764
the same institution, but such property shall appear on the 56765
abstract filed annually with the commissioner. The commissioner 56766
may revise at any time the list in every county so that no 56767
property is improperly or illegally exempted from taxation. The 56768
auditor shall follow the orders of the commissioner given under 56769
this section. An abstract of ~~such~~ the list shall be filed annually 56770
with the commissioner, on a form approved by the commissioner, and 56771
a copy thereof shall be kept on file in the office of each auditor 56772
for public inspection. 56773

The commissioner shall not consider an application for 56774
exemption of property unless the application has attached thereto 56775
a certificate executed by the county treasurer certifying one of 56776
the following: 56777

(1) That all taxes, assessments, interest, and penalties 56778
levied and assessed against the property sought to be exempted 56779
have been paid in full to the date upon which the application for 56780
exemption is filed, except for such taxes, interest, and penalties 56781
that may be remitted under division (B) of this section; 56782

(2) That the applicant has entered into a valid delinquent 56783
tax contract with the county treasurer pursuant to division (A) of 56784
section 323.31 of the Revised Code to pay all of the delinquent 56785
taxes, assessments, interest, and penalties charged against the 56786
property, except for such taxes, interest, and penalties that may 56787
be remitted under division (B) of this section. If the auditor 56788
receives notice under section 323.31 of the Revised Code that such 56789
a written delinquent tax contract has become void, the auditor 56790
shall strike ~~such~~ the property from the list of exempted property 56791
and reenter ~~such~~ the property on the taxable list. If property is 56792

removed from the exempt list because a written delinquent tax 56793
contract has become void, current taxes shall first be extended 56794
against that property on the general tax list and duplicate of 56795
real and public utility property for the tax year in which the 56796
auditor receives the notice required by division (A) of section 56797
323.31 of the Revised Code that the delinquent tax contract has 56798
become void or, if that notice is not timely made, for the tax 56799
year in which falls the latest date by which the treasurer is 56800
required by ~~such~~ that section to give such notice. A county 56801
auditor shall not remove from any tax list and duplicate the 56802
amount of any unpaid delinquent taxes, assessments, interest, or 56803
penalties owed on property that is placed on the exempt list 56804
pursuant to this division. 56805

(3) That a tax certificate has been issued under section 56806
5721.32 or 5721.33 of the Revised Code with respect to the 56807
property that is the subject of the application, and the tax 56808
certificate is outstanding. 56809

(B) Any taxes, interest, and penalties ~~which~~ that have become 56810
a lien after the property was first used for the exempt purpose, 56811
but in no case prior to the date of acquisition of the title to 56812
the property by the applicant, may be remitted by the 56813
commissioner, except as is provided in division (A) of section 56814
5713.081 of the Revised Code. 56815

(C) Real property acquired by the state in fee simple is 56816
exempt from taxation from the date of acquisition of title or date 56817
of possession, whichever is the earlier date, provided that all 56818
taxes, interest, and penalties as provided in the apportionment 56819
provisions of section 319.20 of the Revised Code have been paid to 56820
the date of acquisition of title or date of possession by the 56821
state, whichever is earlier. The proportionate amount of taxes 56822
that are a lien but not yet determined, assessed, and levied for 56823
the year in which the property is acquired, shall be remitted by 56824

the county auditor for the balance of the year from date of 56825
acquisition of title or date of possession, whichever is earlier. 56826
This section shall not be construed to authorize the exemption of 56827
such property from taxation or the remission of taxes, interest, 56828
and penalties thereon until all private use has terminated. 56829

Real property acquired by the department of natural resources 56830
for which an application for exemption has been filed shall be 56831
removed from the tax list and duplicate and shall not accrue taxes 56832
or penalties while the application for tax exemption is being 56833
processed. 56834

Sec. 5715.24. (A) The tax commissioner, annually, shall 56835
determine whether the real property and the various classes 56836
thereof in the several counties, municipal corporations, and 56837
taxing districts which have completed a sexennial reappraisal in 56838
the current year and which will have the new taxable values placed 56839
on the tax list and duplicate have been assessed as required by 56840
law, and whether the values set forth in the agricultural land tax 56841
list in such taxing districts correctly reflect the true and 56842
agricultural use values of the lands contained therein. The 56843
determination shall be made prior to the first Monday in August 56844
unless the commissioner, for good cause, extends the date. If the 56845
commissioner finds that the real property or any class thereof in 56846
any such county, municipal corporation, or taxing district, as 56847
reported to it by the several county auditors of the counties that 56848
have completed such reappraisal is not listed for taxation or 56849
recorded on the agricultural land tax list in accordance 56850
therewith, ~~he~~ the commissioner shall increase or decrease the 56851
appropriate aggregate value of the real property or any class 56852
thereof in any such county, township, municipal corporation, 56853
taxing district, or ward or division of a municipal corporation, 56854
by a per cent or amount that will cause such property to be 56855

correctly valued on the agricultural land tax list and to be 56856
correctly assessed on the tax list at its taxable value so that 56857
every class of real property shall be listed and valued for 56858
taxation and valued for purposes of sections 5713.33 to 5713.35 of 56859
the Revised Code as required by law. In determining whether a 56860
class of real property has been assessed at its correct taxable 56861
value or agricultural use value and in determining any per cent or 56862
amount by which the aggregate value of the class from a prior year 56863
shall be increased or decreased to be correctly assessed, the 56864
value of new construction shall not be regarded as an increase in 56865
such aggregate value from the prior year, and the value of 56866
property destroyed or demolished since the prior year shall be 56867
deducted from the aggregate value of that class for the prior 56868
year. 56869

In implementing any increase or decrease in valuation of real 56870
property ordered by the commissioner pursuant to this section, the 56871
county auditor shall, when practicable, increase or decrease the 56872
taxable valuation of parcels in accordance with actual changes in 56873
valuation of real property which occur in different subdivisions, 56874
neighborhoods, or among classes of real property in the county. 56875

(B) Division (A) of this section also applies to a county in 56876
the third calendar year following the year in which a sexennial 56877
reappraisal is completed. 56878

Sec. 5719.041. If the payment of a general personal property 56879
or classified property tax is not made on or before the last day 56880
prescribed by section 5719.03 or 5719.031 of the Revised Code, an 56881
interest charge shall begin to accrue and shall continue until all 56882
charges are paid, except that no interest charge shall accrue for 56883
or in the month in which such payment was due under such section 56884
or under the circumstances and for the period described in 56885
division (A)(2) of section 5711.33 of the Revised Code or upon 56886

delinquent taxes that are the subject of a delinquent tax contract 56887
entered into pursuant to section 5719.05 of the Revised Code. 56888

The interest charge shall accrue against the balance of such 56889
taxes and any penalty thereon outstanding that remains unpaid on 56890
the last day of each month and shall be at the rate per calendar 56891
month, rounded to the nearest one-hundredth of one per cent, equal 56892
to one-twelfth of the ~~rate per annum prescribed by federal~~ 56893
short-term rate determined by the tax commissioner under section 56894
5703.47 of the Revised Code for the calendar year that includes 56895
the month for which the charge accrues. The charge is payable in 56896
addition to the unpaid balance of taxes and penalties on the day 56897
the charge accrues, unless the entire balance is sooner paid. 56898

If a delinquent tax contract becomes void, interest shall be 56899
charged on the day on which the contract becomes void in the 56900
amount that would have been charged had the delinquent tax 56901
contract not been entered into and shall thereafter accrue as 56902
provided in this section. 56903

Interest shall be allowed, at the same rate per calendar 56904
month as is applicable that month for underpayments, on any 56905
overpayment of the tax charged on a general personal property or a 56906
classified property tax duplicate, from the first day of the month 56907
following the date of the overpayment until the last day of the 56908
month preceding the date of the refund of the overpayment. The 56909
interest shall be paid from the fund or funds to which the 56910
overpayment was credited. 56911

When the county treasurer makes the treasurer's annual 56912
settlement with the county auditor under division (D) of section 56913
321.24 of the Revised Code, the treasurer shall certify to the 56914
auditor a list of all entries on the cumulative delinquent tax 56915
duplicate that are at that time in the process of being paid in 56916
installments under a valid delinquent tax contract. For each entry 56917
that appears on the duplicate that is not on the certified list, 56918

the auditor shall compute the full amount of interest charges 56919
which have accrued against such entry since the preceding such 56920
settlement was made and shall include such charges through the 56921
last day of the month preceding the current settlement. The 56922
auditor shall include such amounts on the tax list and duplicates 56923
prepared by the auditor as prescribed in section 5719.04 of the 56924
Revised Code unless the interest is less than one dollar, in which 56925
case it shall not be added to such tax lists and duplicates. 56926

Before the county treasurer accepts any payment of taxes 56927
against which there are accrued interest charges that do not 56928
appear on the delinquent tax duplicate, the treasurer shall notify 56929
the auditor who shall issue a certificate to the treasurer showing 56930
the amount of such interest charges, and the treasurer shall 56931
collect the amount shown on such certificate at the time of 56932
accepting payment of such taxes. If the amount of such interest 56933
charges is less than one dollar, no such certificate shall be 56934
issued. In the case of delinquent personal property taxes, the 56935
interest shown on such certificate shall be credited to the 56936
undivided general tax fund, and distributed in the same manner as 56937
the delinquent taxes upon which the interest charges accrued. In 56938
the case of delinquent classified property taxes, the interest 56939
shown on such certificate shall be credited to the county library 56940
and local government support fund and distributed in accordance 56941
with section 5747.48 of the Revised Code. When the payment of 56942
delinquent taxes is credited on the tax duplicate the treasurer 56943
shall make a separate notation thereon indicating the amount 56944
collected and the index number of the auditor's certificate herein 56945
prescribed. 56946

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 56947
Revised Code: 56948

(A) "Financial institution" means: 56949

(1) A national bank organized and existing as a national bank association pursuant to the "National Bank Act," 12 U.S.C. 21;	56950 56951
(2) A federal savings association or federal savings bank that is chartered under 12 U.S.C. 1464;	56952 56953
(3) A bank, banking association, trust company, savings and loan association, savings bank, or other banking institution that is incorporated or organized under the laws of any state;	56954 56955 56956
(4) Any corporation organized under 12 U.S.C. 611 to 631;	56957
(5) Any agency or branch of a foreign depository as defined in 12 U.S.C. 3101;	56958 56959
(6) A company licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, as amended; or	56960 56961 56962
(7) A company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C. 1131(d), as amended.	56963 56964
Corporations or institutions organized under the "Federal Farm Loan Act" and amendments thereto, insurance companies, and credit unions shall not be considered financial institutions or dealers in intangibles within the meaning of such sections.	56965 56966 56967 56968
(B) "Dealer in intangibles" includes every person who keeps an office or other place of business in this state and engages at such office or other place in the business of lending money, or discounting, buying, or selling bills of exchange, drafts, acceptances, notes, mortgages, or other evidences of indebtedness, or of buying or selling bonds, stocks, or other investment securities, whether on the person's own account with a view to profit, or as agent or broker for others, with a view to profit or personal earnings. Dealer in intangibles excludes institutions used exclusively for charitable purposes, insurance companies, and financial institutions. Neither casual nor isolated transactions	56969 56970 56971 56972 56973 56974 56975 56976 56977 56978 56979

of any of the kinds enumerated in this division of this section, 56980
nor the investment of funds as personal accumulations or as 56981
business reserves or working capital constitute engaging in 56982
business within the meaning of this division of this section; but 56983
a person who, having engaged in the business of lending money, or 56984
discounting, buying, or selling bills of exchange, drafts, 56985
acceptances, notes, mortgages, or other evidences of indebtedness 56986
on the person's own account, remains in business for the purpose 56987
of realizing upon the assets of ~~such~~ the business is deemed a 56988
dealer in intangibles, though not presently engaged in lending 56989
money or discounting or buying such securities. 56990

(C) "Insurance company" includes every corporation, 56991
association, and society engaged in the business of insurance of 56992
any character, or engaged in the business of entering into 56993
contracts substantially amounting to insurance of any character, 56994
or of indemnifying or guaranteeing against loss or damage, or 56995
acting as surety on bonds or undertakings. "Insurance company" 56996
also includes any health insuring corporation as defined in 56997
section 1751.01 of the Revised Code. 56998

(D) "Domestic insurance company" includes every insurance 56999
company organized and existing under the laws of this state, and 57000
every unincorporated association and society formed under the laws 57001
of this state for the purpose of engaging in said business, except 57002
a company, association, or society that is an insurance holding 57003
company affiliate controlled by a nonresident affiliate and has 57004
risks in this state formerly written by its foreign affiliates in 57005
a total amount exceeding the risks outstanding on the taxpayer's 57006
latest annual report that arise from business initially written by 57007
it in this state; and excludes every foreign insurance company. As 57008
used in this division, terms defined in section 3901.32 of the 57009
Revised Code have the same meanings given to them in that section. 57010

(E) "Foreign insurance company" includes every insurance 57011

company organized or existing under the laws of any other state, 57012
territory, country, or the United States and every insurance 57013
holding company affiliate excepted under division (D) of this 57014
section. 57015

(F) "Credit union" means a nonprofit cooperative financial 57016
institution organized or chartered under the laws of this state, 57017
of another state, or of the United States. 57018

Sec. 5725.19. (A) As used in this section, "tax otherwise 57019
due" means the tax imposed on a domestic insurance company under 57020
section 5725.18 of the Revised Code reduced by the total amount of 57021
all other nonrefundable credits, if any, that the domestic 57022
insurance company is entitled to claim. 57023

(B) Upon the issuance of a tax credit certificate by the Ohio 57024
venture capital authority under section 150.07 of the Revised 57025
Code, a credit may be claimed against the tax imposed on a 57026
domestic insurance company under section 5725.18 of the Revised 57027
Code. The credit shall be claimed in the calendar year specified 57028
in the certificate issued by the authority. 57029

(C) If the company elected a refundable credit under section 57030
150.07 of the Revised Code and if the amount of the credit shown 57031
on the certificate does not exceed the tax otherwise due, then for 57032
the calendar year the company shall claim a refundable credit 57033
equal to the amount of the credit shown on the certificate. 57034

(D) If the company elected a refundable credit under section 57035
150.07 of the Revised Code, and the amount of the credit shown on 57036
the certificate exceeds the tax otherwise due ~~under section~~ 57037
~~5725.18 of the Revised Code,~~ then for the calendar year the 57038
~~company may receive a refund equal to seventy five per cent of~~ 57039
~~such excess. If~~ shall claim a refundable credit equal to the sum 57040
of the following: 57041

(1) The amount, if any, of the tax otherwise due; 57042

(2) Seventy-five per cent of the difference between the 57043
amount of the refundable credit shown on the certificate and the 57044
tax otherwise due. 57045

(E) If the company elected a nonrefundable credit, the amount 57046
of the credit shown on the certificate shall not exceed the amount 57047
of tax otherwise due. If the company elected a nonrefundable 57048
credit and the credit to which the company would otherwise be 57049
entitled under this section for any calendar year is greater than 57050
the tax otherwise due ~~under section 5725.18 of the Revised Code,~~ 57051
the excess shall be allowed as a nonrefundable credit in each of 57052
the ensuing ten calendar years, but the amount of any excess 57053
credit allowed in the ensuing calendar year shall be deducted from 57054
the balance carried forward to the next calendar year. 57055

Sec. 5727.01. As used in this chapter: 57056

(A) "Public utility" means each person referred to as a 57057
telephone company, telegraph company, electric company, natural 57058
gas company, pipe-line company, water-works company, water 57059
transportation company, heating company, rural electric company, 57060
railroad company, or combined company. 57061

(B) "Gross receipts" means the entire receipts for business 57062
done by any person from operations as a public utility, or 57063
incidental thereto, or in connection therewith, including any 57064
receipts received under Chapter 4928. of the Revised Code. The 57065
gross receipts for business done by an incorporated company 57066
engaged in operation as a public utility includes the entire 57067
receipts for business done by such company under the exercise of 57068
its corporate powers, whether from the operation as a public 57069
utility or from any other business. 57070

(C) "Rural electric company" means any nonprofit corporation, 57071

organization, association, or cooperative engaged in the business	57072
of supplying electricity to its members or persons owning an	57073
interest therein in an area the major portion of which is rural.	57074
(D) Any person:	57075
(1) Is a telegraph company when engaged in the business of	57076
transmitting telegraphic messages to, from, through, or in this	57077
state;	57078
(2) Is a telephone company when primarily engaged in the	57079
business of providing local exchange telephone service, excluding	57080
cellular radio service, in this state;	57081
(3) Is an electric company when engaged in the business of	57082
generating, transmitting, or distributing electricity within this	57083
state for use by others, but excludes a rural electric company;	57084
(4) Is a natural gas company when engaged in the business of	57085
supplying or distributing natural gas for lighting, power, or	57086
heating purposes to consumers within this state, excluding a	57087
person that is a governmental aggregator or retail natural gas	57088
supplier as defined in section 4929.01 of the Revised Code;	57089
(5) Is a pipe-line company when engaged in the business of	57090
transporting natural gas, oil, or coal or its derivatives through	57091
pipes or tubing, either wholly or partially within this state;	57092
(6) Is a water-works company when engaged in the business of	57093
supplying water through pipes or tubing, or in a similar manner,	57094
to consumers within this state;	57095
(7) Is a water transportation company when engaged in the	57096
transportation of passengers or property, by boat or other	57097
watercraft, over any waterway, whether natural or artificial, from	57098
one point within this state to another point within this state, or	57099
between points within this state and points without this state;	57100
(8) Is a heating company when engaged in the business of	57101

supplying water, steam, or air through pipes or tubing to 57102
consumers within this state for heating purposes; 57103

(9) Is a railroad company when engaged in the business of 57104
owning or operating a railroad either wholly or partially within 57105
this state on rights-of-way acquired and held exclusively by such 57106
company, or otherwise, and includes a passenger, street, suburban, 57107
or interurban railroad company. 57108

As used in division (D)(2) of this section, "local exchange 57109
telephone service" means making available or furnishing access and 57110
a dial tone to all persons within a local calling area for use in 57111
originating and receiving voice grade communications over a 57112
switched network operated by the provider of the service within 57113
the area and for gaining access to other telecommunication 57114
services. 57115

(E) "Taxable property" means the property required by section 57116
5727.06 of the Revised Code to be assessed by the tax 57117
commissioner, but does not include ~~either~~ of the following: 57118

(1) An item of tangible personal property that for the period 57119
subsequent to the effective date of an air, water, or noise 57120
pollution control certificate and continuing so long as the 57121
certificate is in force, has been certified as part of the 57122
pollution control facility with respect to which the certificate 57123
has been issued; 57124

(2) An item of tangible personal property that during the 57125
construction of a plant or facility and until the item is first 57126
capable of operation, whether actually used in operation or not, 57127
is incorporated in or being held exclusively for incorporation in 57128
that plant or facility; 57129

(3) For tax year 2006 and thereafter, documented costs for 57130
drawings used by a public utility or interexchange 57131
telecommunications company to provide its public utility or 57132

interexchange telecommunication service. Division (E)(3) of this 57133
section does not apply to an electric company or a combined 57134
company engaged in the activity of an electric company. 57135

(F) "Taxing district" means a municipal corporation of 57136
township, or part thereof, in which the aggregate rate of taxation 57137
is uniform. 57138

(G) "Telecommunications service" has the same meaning as in 57139
division (AA) of section 5739.01 of the Revised Code. 57140

(H) "Interexchange telecommunications company" means a person 57141
that is engaged in the business of transmitting telephonic 57142
messages to, from, through, or in this state, but that is not a 57143
telephone company. 57144

(I) "Sale and leaseback transaction" means a transaction in 57145
which a public utility or interexchange telecommunications company 57146
sells any tangible personal property to a person other than a 57147
public utility or interexchange telecommunications company and 57148
leases that property back from the buyer. 57149

(J) "Production equipment" means all taxable steam, nuclear, 57150
hydraulic, and other production plant equipment used to generate 57151
electricity. For tax years prior to 2001, "production equipment" 57152
includes taxable station equipment that is located at a production 57153
plant. 57154

(K) "Tax year" means the year for which property or gross 57155
receipts are subject to assessment under this chapter. This 57156
division does not limit the tax commissioner's ability to assess 57157
and value property or gross receipts outside the tax year. 57158

(L) "Combined company" means any person engaged in the 57159
activity of an electric company or rural electric company that is 57160
also engaged in the activity of a heating company or a natural gas 57161
company, or any combination thereof. 57162

Sec. 5727.02. As used in this chapter, "public utility," 57163
"electric company," "natural gas company," "pipe-line company," 57164
"water-works company," "water transportation company" or "heating 57165
company" does not include any of the following: 57166

(A) Any (1) Except as provided in division (A)(2) of this 57167
section, any person that is engaged in some other primary business 57168
to which the supplying of electricity, heat, natural gas, water, 57169
water transportation, steam, or air to others is incidental. As 57170
used in ~~this~~ division (A) of this section and in section 5727.031 57171
of the Revised Code, "supplying of electricity" means generating, 57172
transmitting, or distributing electricity. 57173

(2) For tax year 2006 and each tax year thereafter, a person 57174
that is engaged in some other primary business to which the 57175
supplying of electricity to others is incidental shall be treated 57176
as an "electric company" and a "public utility" for purposes of 57177
this chapter solely to the extent required by section 5727.031 of 57178
the Revised Code. 57179

(B) Any person that supplies electricity, natural gas, water, 57180
water transportation, steam, or air to its tenants, whether for a 57181
separate charge or otherwise; 57182

(C) Any person whose primary business in this state consists 57183
of producing, refining, or marketing petroleum or its products. 57184

(D) Any person whose primary business in this state consists 57185
of producing or gathering natural gas rather than supplying or 57186
distributing natural gas to consumers. 57187

Sec. 5727.031. (A) For tax year 2006 and each tax year 57188
thereafter, a person that is engaged in some other primary 57189
business to which the supplying of electricity to others is 57190
incidental shall file a report under section 5727.08 of the 57191
Revised Code as an electric company but shall only report therein 57192

as taxable property the amounts required in divisions (B) and (C) 57193
of this section. All time limits and other procedural requirements 57194
of this chapter for the reporting and assessment of property of 57195
electric companies apply to persons required to file a report 57196
under this section. 57197

(B) A person subject to this section shall report the true 57198
value of the boilers, machinery, equipment, and any personal 57199
property used to supply electricity to others, which shall be the 57200
sum of the following: 57201

(1) The true value of the property that is production 57202
equipment as it would be determined for an electric company under 57203
section 5727.11 of the Revised Code multiplied by the per cent of 57204
the electricity generated in the preceding calendar year that was 57205
not used by the person who generated it; plus 57206

(2) The true value of the property that is not production 57207
equipment as it would be determined for an electric company under 57208
section 5727.11 of the Revised Code multiplied by the per cent of 57209
the electricity generated in the preceding calendar year that was 57210
not used by the person who generated it. 57211

(C) The property reported under division (B) of this section 57212
shall be listed and assessed at an amount equal to the sum of the 57213
products determined under divisions (C)(1) and (2) of this 57214
section. 57215

(1) Multiply the portion of the true value determined under 57216
division (B)(1) of this section by the assessment rate in section 57217
5727.111 of the Revised Code that is applicable to the production 57218
equipment of an electric company; 57219

(2) Multiply the portion of the true value determined under 57220
division (B)(2) of this section by the assessment rate in section 57221
5727.111 of the Revised Code that is applicable to the property of 57222

an electric company that is not production equipment. 57223

Sec. 5727.06. (A) Except as otherwise provided by law, the 57224
following constitutes the taxable property of a public utility or 57225
interexchange telecommunications company that shall be assessed by 57226
the tax commissioner: 57227

(1) For tax years before tax year 2006: 57228

(a) In the case of a railroad company, all real property and 57229
tangible personal property owned or operated by the railroad 57230
company in this state on the thirty-first day of December of the 57231
preceding year; 57232

~~(2)~~(b) In the case of a water transportation company, all 57233
tangible personal property, except watercraft, owned or operated 57234
by the water transportation company in this state on the 57235
thirty-first day of December of the preceding year and all 57236
watercraft owned or operated by the water transportation company 57237
in this state during the preceding calendar year; 57238

~~(3)~~(c) In the case of all other public utilities and 57239
interexchange telecommunications companies, all tangible personal 57240
property that on the thirty-first day of December of the preceding 57241
year was both located in this state and: 57242

~~(a)~~(i) Owned by the public utility or interexchange 57243
telecommunications company; or 57244

~~(b)~~(ii) Leased by the public utility or interexchange 57245
telecommunications company under a sale and leaseback transaction. 57246

(2) For tax year 2006 and each tax year thereafter: 57247

(a) In the case of a railroad company, all real property and 57248
tangible personal property owned, leased, or operated by the 57249
railroad company in this state on the thirty-first day of December 57250
of the preceding year; 57251

(b) In the case of a water transportation company, all 57252
tangible personal property, except watercraft, owned, leased, or 57253
operated by the water transportation company in this state on the 57254
thirty-first day of December of the preceding year and all 57255
watercraft owned, leased, or operated by the water transportation 57256
company in this state during the preceding calendar year; 57257

(c) In the case of all other public utilities and 57258
interexchange telecommunications companies, all tangible personal 57259
property owned, leased, or operated by the public utility or 57260
interexchange telecommunications company in this state on the 57261
thirty-first day of December of the preceding year. 57262

(d) Tangible personal property owned by one public utility or 57263
interexchange telecommunications company in this state and leased 57264
or operated by another public utility or interexchange 57265
telecommunications company in this state shall be taxable property 57266
of the public utility or interexchange telecommunications company 57267
the property is leased or operated by and shall not be taxable 57268
property of the public utility or interexchange telecommunications 57269
company the property is owned by. 57270

(B) In the case of an interexchange telecommunications 57271
company, all taxable property shall be subject to the provisions 57272
of this chapter and shall be valued by the commissioner in 57273
accordance with division (A) of section 5727.11 of the Revised 57274
Code. A person described by this division shall file the report 57275
required by section 5727.08 of the Revised Code. Persons described 57276
in this division shall not be considered taxpayers, as defined in 57277
division (B) of section 5711.01 of the Revised Code, and shall not 57278
be required to file a return and list their taxable property under 57279
any provision of Chapter 5711. of the Revised Code. 57280

(C) The lien of the state for taxes levied each year on the 57281
real and personal property of public utilities and interexchange 57282

telecommunications companies shall attach thereto on the 57283
thirty-first day of December of the preceding year. 57284

(D) Property that is required by division (A)(3)(b) of this 57285
section to be assessed by the tax commissioner under this chapter 57286
shall not be listed by the owner of the property under Chapter 57287
5711. of the Revised Code. 57288

(E) The tax commissioner may adopt rules governing the 57289
listing of the taxable property of public utilities and 57290
interexchange telecommunications companies and the determination 57291
of true value. 57292

Sec. 5727.10. Annually, the tax commissioner shall determine, 57293
in accordance with section 5727.11 of the Revised Code, the true 57294
value in money of all taxable property required by division (A)(2) 57295
~~or (3)(a), (b), (c), or (d)~~ of section 5727.06 of the Revised Code 57296
to be assessed by the commissioner. The commissioner also shall 57297
determine the total taxable value of such property based on the 57298
percentages of true value at which the property is required to be 57299
assessed by section 5727.111 of the Revised Code. 57300
57301

The commissioner shall be guided by the information contained 57302
in the report filed by the public utility and such other evidence 57303
and rules as will enable ~~him~~ the commissioner to make these 57304
determinations. 57305

Before issuing the preliminary assessment under section 57306
5727.23 of the Revised Code, the commissioner shall notify each 57307
public utility of the proposed total taxable value of its taxable 57308
property, including any proposed penalty. After receiving such 57309
notice, a public utility may, upon written application, within the 57310
time prescribed by the commissioner, appear before ~~him~~ the
commissioner and be heard in the matter of the proposal. The 57311
57312

commissioner may, on the application of a public utility, or on 57313
~~his~~ the commissioner's own motion, correct the proposal. 57314

Sec. 5727.11. (A) Except as otherwise provided in this 57315
section, the true value of all taxable property required by 57316
division (A)(2) ~~or (3)~~ (a), (b), (c), or (d) of section 5727.06 of 57317
the Revised Code to be assessed by the tax commissioner shall be 57318
determined by a method of valuation using cost as capitalized on 57319
the public utility's books and records less composite annual 57320
allowances as prescribed by the commissioner. If the commissioner 57321
finds that application of this method will not result in the 57322
determination of true value of the public utility's taxable 57323
property, the commissioner may use another method of valuation. 57324

(B)(1) Except as provided in division (B)(2) of this section, 57325
the true value of current gas stored underground is the cost of 57326
that gas shown on the books and records of the public utility on 57327
the thirty-first day of December of the preceding year. 57328

(2) For tax year 2001 and thereafter, the true value of 57329
current gas stored underground is the quotient obtained by 57330
dividing (a) the average value of the current gas stored 57331
underground, which shall be determined by adding the value of the 57332
gas on hand at the end of each calendar month in the calendar year 57333
preceding the tax year, or, if applicable, the last day of 57334
business of each month for a partial month, divided by (b) the 57335
total number of months the natural gas company was in business 57336
during the calendar year prior to the beginning of the tax year. 57337
with the approval of the tax commissioner, a natural gas company 57338
may use a date other than the end of a calendar month to value its 57339
current gas stored underground. 57340

(C) The true value of noncurrent gas stored underground is 57341
thirty-five per cent of the cost of that gas shown on the books 57342
and records of the public utility on the thirty-first day of 57343

December of the preceding year. 57344

(D)(1) Except as provided in division (D)(2) of this section, 57345
the true value of the production equipment of an electric company 57346
and the true value of all taxable property of a rural electric 57347
company is the equipment's or property's cost as capitalized on 57348
the company's books and records less fifty per cent of that cost 57349
as an allowance for depreciation and obsolescence. 57350

(2) The true value of the production equipment of an electric 57351
company or rural electric company purchased, transferred, or 57352
placed into service after the effective date of this amendment is 57353
the purchase price of the equipment as capitalized on the 57354
company's books and records less composite annual allowances as 57355
prescribed by the tax commissioner. 57356

(E) The true value of taxable property described in division 57357
(A)(2) ~~or (3)~~ (a), (b), (c), or (d) of section 5727.06 of the 57358
Revised Code shall not include the allowance for funds used during 57359
construction or interest during construction that has been 57360
capitalized on the public utility's books and records as part of 57361
the total cost of the taxable property. This division shall not 57362
apply to the taxable property of an electric company or a rural 57363
electric company, excluding transmission and distribution 57364
property, first placed into service after December 31, 2000, or to 57365
the taxable property a person purchases, which includes transfers, 57366
if that property was used in business by the seller prior to the 57367
purchase. 57368

(F) The true value of watercraft owned or operated by a water 57369
transportation company shall be determined by multiplying the true 57370
value of the watercraft as determined under division (A) of this 57371
section by a fraction, the numerator of which is the number of 57372
revenue-earning miles traveled by the watercraft in the waters of 57373
this state and the denominator of which is the number of 57374

revenue-earning miles traveled by the watercraft in all waters. 57375

(G) The cost of property subject to a sale and leaseback 57376
transaction is the cost of the property as capitalized on the 57377
books and records of the public utility owning the property 57378
immediately prior to the sale and leaseback transaction. 57379

(H) The cost as capitalized on the books and records of a 57380
public utility includes amounts capitalized that represent 57381
regulatory assets, if such amounts previously were included on the 57382
company's books and records as capitalized costs of taxable 57383
personal property. 57384

(I) Any change in the composite annual allowances as 57385
prescribed by the commissioner on a prospective basis shall not be 57386
admissible in any judicial or administrative action or proceeding 57387
as evidence of value with regard to prior years' taxes. 57388
Information about the business, property, or transactions of any 57389
taxpayer obtained by the commissioner for the purpose of adopting 57390
or modifying the composite annual allowances shall not be subject 57391
to discovery or disclosure. 57392

Sec. 5727.111. The taxable property of each public utility, 57393
except a railroad company, and of each interexchange 57394
telecommunications company shall be assessed at the following 57395
percentages of true value: 57396

~~(A)(1) Except as provided in division (A)(2) of this section,~~ 57397
~~fifty per cent in the case of a rural electric company;~~ 57398

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 57399
the case of the taxable transmission and distribution property of 57400
a rural electric company, and twenty-five per cent for all its 57401
other taxable property; 57402

(B) In the case of a telephone or telegraph company, 57403
twenty-five per cent for taxable property first subject to 57404

taxation in this state for tax year 1995 or thereafter, and the	57405
following for all other taxable property:	57406
(1) For tax years prior to 2005, eighty-eight per cent;	57407
(2) For tax year 2005, sixty-seven per cent;	57408
(3) For tax year 2006, forty-six per cent;	57409
(4) For tax year 2007 and thereafter, twenty-five per cent.	57410
(C) Twenty-five per cent in the case of a natural gas	57411
company.	57412
(D) Eighty-eight per cent in the case of a pipe-line,	57413
water-works, or heating company;	57414
(E)(1) Except as provided in division (E)(2) or (3) of this	57415
section, one hundred per cent in the case of the taxable	57416
production equipment of an electric company and eighty eight per	57417
cent for all its other taxable property;	57418
(2) For tax year 2001 and thereafter 2005, eighty-eight per	57419
cent in the case of the taxable transmission and distribution	57420
property of an electric company, and twenty-five per cent for all	57421
its other taxable property;	57422
(3) Property listed and assessed under divisions (B)(1) and	57423
(2) of section 5711.22 of the Revised Code and leased to an	57424
electric company shall continue to be assessed at one hundred per	57425
cent for production equipment and eighty eight	57426
<u>(2) For tax year</u>	57427
<u>2006 and each tax year thereafter, eighty-five per cent in the</u>	57428
<u>case of the taxable transmission and distribution property of an</u>	57429
<u>electric company, and twenty-four per cent for all such its other</u>	57430
<u>taxable property until January 1, 2002.</u>	57430
(F) Twenty-five per cent in the case of an interexchange	57431
telecommunications company;	57432
(G) Twenty-five per cent in the case of a water	57433

transportation company. 57434

Sec. 5727.12. As used in this chapter, "property used in 57435
railroad operations" means property used in or determined by the 57436
tax commissioner to be held by a railroad for use in railroad 57437
operations. In determining the true value of all real and personal 57438
property owned or leased by each railroad company and used in 57439
railroad operations, the commissioner shall use the unitary method 57440
and value all of the property of the company's railroad system as 57441
a whole, considering the factors generally used in that method, 57442
and weighing each factor appropriately. The true value of the 57443
property used in railroad operations shall be apportioned to this 57444
state as provided in section 5727.14 of the Revised Code. The 57445
commissioner shall separately determine the true value of property 57446
owned by the company that the commissioner determines is not used 57447
in railroad operations. The commissioner may require the advice of 57448
county auditors concerning such values. 57449

All property of a railroad shall be assessed for taxation at 57450
the same percentage of true value at which all other real property 57451
in this state is assessed, in the case of real property, and at 57452
the percentage of true value provided under divisions (E) ~~and~~, 57453
(F), and (G) of section 5711.22 of the Revised Code, in the case 57454
of personal property. 57455

A determination of the value of each tract, lot, or parcel of 57456
real property or each item of personal property not used in 57457
railroad operations shall be considered a separate determination 57458
with respect to which a separate petition for reassessment may be 57459
filed under section 5727.47 of the Revised Code. 57460

Where a line of railroad is subsidized under the terms of the 57461
federal regional rail reorganization act or the federal rail 57462
revitalization and regulatory reform act, the real and other fixed 57463
property shall be assessed solely in the name of its owner. 57464

<u>Sec. 5727.241. (A) As used in this section:</u>	57465
<u>(1) "Tax otherwise due" means the tax imposed on a taxpayer under section 5727.24 of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the taxpayer is entitled to claim.</u>	57466 57467 57468 57469
<u>(2) "Taxpayer" means any person subject to the tax imposed by section 5727.24 of the Revised Code.</u>	57470 57471
<u>(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a taxpayer under section 5727.24 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority.</u>	57472 57473 57474 57475 57476 57477
<u>(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.</u>	57478 57479 57480 57481 57482
<u>(D) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the sum of the following:</u>	57483 57484 57485 57486 57487
<u>(1) The amount, if any, of the tax otherwise due;</u>	57488
<u>(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due.</u>	57489 57490 57491
<u>(E) If the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the taxpayer would otherwise be entitled under this</u>	57492 57493 57494

section for any calendar year is greater than the tax otherwise 57495
due, the excess shall be allowed as a nonrefundable credit in each 57496
of the ensuing ten calendar years, but the amount of any excess 57497
nonrefundable credit allowed in the ensuing calendar year shall be 57498
deducted from the balance carried forward to the next calendar 57499
year. 57500

Sec. 5727.81. (A) For the purpose of raising revenue for 57501
public education and state and local government operations, an 57502
excise tax is hereby levied and imposed on an electric 57503
distribution company for all electricity distributed by such 57504
company ~~beginning with the measurement period that includes May 1,~~ 57505
~~2001,~~ at the following rates per kilowatt hour of electricity 57506
distributed in a thirty-day period by the company through a meter 57507
of an end user in this state: 57508

KILOWATT HOURS DISTRIBUTED	RATE PER	
TO AN END USER	KILOWATT HOUR	
For the first 2,000	\$.00465 <u>00605</u>	57511
For the next 2,001 to 15,000	\$.00419 <u>00545</u>	57512
For 15,001 and above	\$.00363 <u>00472</u>	57513

If no meter is used to measure the kilowatt hours of 57514
electricity distributed by the company, the rates shall apply to 57515
the estimated kilowatt hours of electricity distributed to an 57516
unmetered location in this state. 57517

The electric distribution company shall base the monthly tax 57518
on the kilowatt hours of electricity distributed to an end user 57519
through the meter of the end user that is not measured for a 57520
thirty-day period by dividing the days in the measurement period 57521
into the total kilowatt hours measured during the measurement 57522
period to obtain a daily average usage. The tax shall be 57523
determined by obtaining the sum of divisions (A)(1), (2), and (3) 57524
of this section and multiplying that amount by the number of days 57525

in the measurement period: 57526

(1) Multiplying ~~\$0.00465~~ .00605 per kilowatt hour for the 57527
first sixty-seven kilowatt hours distributed using a daily 57528
average; 57529

(2) Multiplying ~~\$0.00419~~ .00545 for the next sixty-eight to 57530
five hundred kilowatt hours distributed using a daily average; 57531

(3) Multiplying ~~\$0.00363~~ .00472 for the remaining kilowatt 57532
hours distributed using a daily average. 57533

~~Until January 1, 2003, except as provided in division (C) of~~ 57534
~~this section, the electric distribution company shall pay the tax~~ 57535
~~to the treasurer of state in accordance with section 5727.82 of~~ 57536
~~the Revised Code. Beginning January 1, 2003, except~~ Except as 57537
provided in division (C) of this section, the electric 57538
distribution company shall pay the tax to the tax commissioner in 57539
accordance with section 5727.82 of the Revised Code, unless 57540
required to remit each tax payment by electronic funds transfer to 57541
the treasurer of state in accordance with section 5727.83 of the 57542
Revised Code. 57543

Only the distribution of electricity through a meter of an 57544
end user in this state shall be used by the electric distribution 57545
company to compute the amount or estimated amount of tax due. In 57546
the event a meter is not actually read for a measurement period, 57547
the estimated kilowatt hours distributed by an electric 57548
distribution company to bill for its distribution charges shall be 57549
used. 57550

(B) Except as provided in division (C) of this section, each 57551
electric distribution company shall pay the tax imposed by this 57552
section in all of the following circumstances: 57553

(1) The electricity is distributed by the company through a 57554
meter of an end user in this state; 57555

(2) The company is distributing electricity through a meter 57556
located in another state, but the electricity is consumed in this 57557
state in the manner prescribed by the tax commissioner; 57558

(3) The company is distributing electricity in this state 57559
without the use of a meter, but the electricity is consumed in 57560
this state as estimated and in the manner prescribed by the tax 57561
commissioner. 57562

(C)(1) As used in division (C) of this section: 57563

(a) "Total price of electricity" means the aggregate value in 57564
money of anything paid or transferred, or promised to be paid or 57565
transferred, to obtain electricity or electric service, including 57566
but not limited to the value paid or promised to be paid for the 57567
transmission or distribution of electricity and for transition 57568
costs as described in Chapter 4928. of the Revised Code. 57569

(b) "Package" means the provision or the acquisition, at a 57570
combined price, of electricity with other services or products, or 57571
any combination thereof, such as natural gas or other fuels; 57572
energy management products, software, and services; machinery and 57573
equipment acquisition; and financing agreements. 57574

(c) "Single location" means a facility located on contiguous 57575
property separated only by a roadway, railway, or waterway. 57576

(2) Division (C) of this section applies to any commercial or 57577
industrial purchaser's receipt of electricity through a meter of 57578
an end user in this state or through more than one meter at a 57579
single location in this state in a quantity that exceeds 57580
forty-five million kilowatt hours of electricity over the course 57581
of the preceding calendar year, or any commercial or industrial 57582
purchaser that will consume more than forty-five million kilowatt 57583
hours of electricity over the course of the succeeding twelve 57584
months as estimated by the tax commissioner. The tax commissioner 57585
shall make such an estimate upon the written request ~~by~~ of an 57586

applicant for registration as a self-assessing purchaser under 57587
this division. Such a purchaser may elect to self-assess the 57588
excise tax imposed by this section at the rate of \$.00075 per 57589
kilowatt hour on the first five hundred four million kilowatt 57590
hours distributed to that meter or location during the 57591
registration year, and ~~four~~ five per cent of the total price of 57592
all electricity distributed to that meter or location. A qualified 57593
end user that receives electricity through a meter of an end user 57594
in this state or through more than one meter at a single location 57595
in this state and that consumes, over the course of the previous 57596
calendar year, more than forty-five million kilowatt hours in 57597
other than its qualifying manufacturing process, may elect to 57598
self-assess the tax as allowed by this division with respect to 57599
the electricity used in other than its qualifying manufacturing 57600
process. ~~Until January 1, 2003, payment of the tax shall be made~~ 57601
~~directly to the treasurer of state in accordance with divisions~~ 57602
~~(A)(4) and (5) of section 5727.82 of the Revised Code. Beginning~~ 57603
~~January 1, 2003, payment~~ Payment of the tax shall be made directly 57604
to the tax commissioner in accordance with divisions (A)(4) and 57605
(5) of section 5727.82 of the Revised Code, or the treasurer of 57606
state in accordance with section 5727.83 of the Revised Code. If 57607
the electric distribution company serving the self-assessing 57608
purchaser is a municipal electric utility and the purchaser is 57609
within the municipal corporation's corporate limits, payment of 57610
the portion of the tax described in division (A)(3)(a) of section 57611
5727.82 of the Revised Code shall be made to such municipal 57612
corporation's general fund and reports shall be filed in 57613
accordance with divisions (A)(4) and (5) of section 5727.82 of the 57614
Revised Code, except that "municipal corporation" shall be 57615
substituted for "treasurer of state" and "tax commissioner." The 57616
remainder of the tax shall be paid directly to the tax 57617
commissioner in accordance with divisions (A)(4) and (5) of 57618
section 5727.82 of the Revised Code, or the treasurer of state in 57619

accordance with section 5727.83 of the Revised Code. A 57620
self-assessing purchaser that pays the excise tax as provided in 57621
this division shall not be required to pay the tax to the electric 57622
distribution company from which its electricity is distributed. If 57623
a self-assessing purchaser's receipt of electricity is not subject 57624
to the tax as measured under this division, the tax on the receipt 57625
of such electricity shall be measured and paid as provided in 57626
division (A) of this section. 57627

(3) In the case of the acquisition of a package, unless the 57628
elements of the package are separately stated isolating the total 57629
price of electricity from the price of the remaining elements of 57630
the package, the tax imposed under this section applies to the 57631
entire price of the package. If the elements of the package are 57632
separately stated, the tax imposed under this section applies to 57633
the total price of the electricity. 57634

(4) Any electric supplier that sells electricity as part of a 57635
package shall separately state to the purchaser the total price of 57636
the electricity and, upon request by the tax commissioner, the 57637
total price of each of the other elements of the package. 57638

(5) The tax commissioner may adopt rules relating to the 57639
computation of the total price of electricity with respect to 57640
self-assessing purchasers, which may include rules to establish 57641
the total price of electricity purchased as part of a package. 57642

(6) An annual application for registration as a 57643
self-assessing purchaser shall be made for each qualifying meter 57644
or location on a form prescribed by the tax commissioner. The 57645
registration year begins on the first day of May and ends on the 57646
following thirtieth day of April. Persons may apply after the 57647
first day of May for the remainder of the registration year. In 57648
the case of an applicant applying on the basis of an estimated 57649
consumption of forty-five million kilowatt hours over the course 57650
of the succeeding twelve months, the applicant shall provide such 57651

information as the tax commissioner considers to be necessary to
estimate such consumption. At the time of making the application
and by the first day of May of each year, ~~excluding May 1, 2000,~~ a
self-assessing purchaser shall pay a fee of five hundred dollars
to the tax commissioner, or to the treasurer of state as provided
in section 5727.83 of the Revised Code, for each qualifying meter
or location. The tax commissioner shall immediately pay to the
treasurer of state all amounts that the tax commissioner receives
under this section. The treasurer of state shall deposit such
amounts into the kilowatt hour excise tax administration fund,
which is hereby created in the state treasury. Money in the fund
shall be used to defray the tax commissioner's cost in
administering the tax owed under section 5727.81 of the Revised
Code by self-assessing purchasers. After the application is
approved by the tax commissioner, the registration shall remain in
effect for the current registration year, or until canceled by the
registrant upon written notification to the commissioner of the
election to pay the tax in accordance with division (A) of this
section, or until canceled by the tax commissioner for not paying
the tax or fee under division (C) of this section or for not
meeting the qualifications in division (C)(2) of this section. The
tax commissioner shall give written notice to the electric
distribution company from which electricity is delivered to a
self-assessing purchaser of the purchaser's self-assessing status,
and the electric distribution company is relieved of the
obligation to pay the tax imposed by division (A) of this section
for electricity distributed to that self-assessing purchaser until
it is notified by the tax commissioner that the self-assessing
purchaser's registration is canceled. Within fifteen days of
notification of the canceled registration, the electric
distribution company shall be responsible for payment of the tax
imposed by division (A) of this section on electricity distributed
to a purchaser that is no longer registered as a self-assessing

purchaser. A self-assessing purchaser with a canceled registration 57685
must file a report and remit the tax imposed by division (A) of 57686
this section on all electricity it receives for any measurement 57687
period prior to the tax being reported and paid by the electric 57688
distribution company. A self-assessing purchaser whose 57689
registration is canceled by the tax commissioner is not eligible 57690
to register as a self-assessing purchaser for two years after the 57691
registration is canceled. 57692

(7) If the tax commissioner cancels the self-assessing 57693
registration of a purchaser registered on the basis of its 57694
estimated consumption because the purchaser does not consume at 57695
least forty-five million kilowatt hours of electricity over the 57696
course of the twelve-month period for which the estimate was made, 57697
the tax commissioner shall assess and collect from the purchaser 57698
the difference between (a) the amount of tax that would have been 57699
payable under division (A) of this section on the electricity 57700
distributed to the purchaser during that period, and (b) the 57701
amount of tax paid by the purchaser on such electricity pursuant 57702
to division (C)(2)(a) of this section. The assessment shall be 57703
paid within sixty days after the tax commissioner issues it, 57704
regardless of whether the purchaser files a petition for 57705
reassessment under section 5727.89 of the Revised Code covering 57706
that period. If the purchaser does not pay the assessment within 57707
the time prescribed, the amount assessed is subject to the 57708
additional charge and the interest prescribed by divisions (B) and 57709
(C) of section 5727.82 of the Revised Code, and is subject to 57710
assessment under section 5727.89 of the Revised Code. If the 57711
purchaser is a qualified end user, division (C)(7) of this section 57712
applies only to electricity it consumes in other than its 57713
qualifying manufacturing process. 57714

(D) The tax imposed by this section does not apply to the 57715
distribution of any kilowatt hours of electricity to the federal 57716

government, to an end user located at a federal facility that uses 57717
electricity for the enrichment of uranium, to a qualified 57718
regeneration meter, or to an end user for any day the end user is 57719
a qualified end user. The exemption under this division for a 57720
qualified end user only applies to the manufacturing location 57721
where the qualified end user uses more than three million kilowatt 57722
hours per day in a qualifying manufacturing process. 57723

Sec. 5727.82. (A)(1) Except as provided in divisions (A)(3) 57724
and (D) of this section, by the twentieth day of each month, each 57725
electric distribution company required to pay the tax imposed by 57726
section 5727.81 of the Revised Code shall file with the tax 57727
commissioner a return as prescribed by the tax commissioner and 57728
shall make payment of the full amount of tax due for the preceding 57729
month. The first payment of this tax shall be made on or before 57730
June 20, 2001. The electric distribution company shall make 57731
payment to the tax commissioner unless required to remit each tax 57732
payment by electronic funds transfer to the treasurer of state as 57733
provided in section 5727.83 of the Revised Code. 57734

(2) By the twentieth day of May, August, November, and 57735
February, each natural gas distribution company required to pay 57736
the tax imposed by section 5727.811 of the Revised Code shall file 57737
with the tax commissioner a return as prescribed by the tax 57738
commissioner and shall make payment to the tax commissioner, or to 57739
the treasurer of state as provided in section 5727.83 of the 57740
Revised Code, of the full amount of tax due for the preceding 57741
quarter. The first payment of this tax shall be made on or before 57742
November 20, 2001, for the quarter ending September 30, 2001. 57743

(3)(a) If the electric distribution company required to pay 57744
the tax imposed by section 5727.81 of the Revised Code is a 57745
municipal electric utility, it may retain in its general fund that 57746
portion of the tax on the kilowatt hours distributed to end users 57747

located within the boundaries of the municipal corporation, but 57748
only that portion of the tax that was imposed by division (A) or 57749
(C)(2) of section 5727.81 of the Revised Code as those divisions 57750
existed prior to their amendment by H.B. 66 of the 126th general 57751
assembly. However, the 57752

(b) The municipal electric utility shall make payment in 57753
accordance with division (A)(1) of this section of the tax due on 57754
the kilowatt hours distributed to end users located outside the 57755
boundaries of the municipal corporation, and of the remainder of 57756
the tax due under division (A)(3)(a) of this section that was not 57757
retained in the general fund of the municipal electric utility. 57758

(4) By the twentieth day of each month, each self-assessing 57759
purchaser that under division (C) of section 5727.81 of the 57760
Revised Code pays directly to the tax commissioner or the 57761
treasurer of state the tax imposed by section 5727.81 of the 57762
Revised Code shall file with the tax commissioner a return as 57763
prescribed by the tax commissioner and shall make payment of the 57764
full amount of the tax due for the preceding month. 57765

(5) As prescribed by the tax commissioner, a return shall be 57766
signed by the company or self-assessing purchaser required to file 57767
it, or an authorized employee, officer, or agent of the company or 57768
purchaser. The return shall be deemed filed when received by the 57769
tax commissioner. 57770

(B) Any natural gas distribution company, electric 57771
distribution company, or self-assessing purchaser required by this 57772
section to file a return who fails to file it and pay the tax 57773
within the period prescribed shall pay an additional charge of 57774
fifty dollars or ten per cent of the tax required to be paid for 57775
the reporting period, whichever is greater. The tax commissioner 57776
may collect the additional charge by assessment pursuant to 57777
section 5727.89 of the Revised Code. The commissioner may abate 57778
all or a portion of the additional charge and may adopt rules 57779

governing such abatements. 57780

(C) If any tax due is not paid timely in accordance with this 57781
section, the natural gas distribution company, electric 57782
distribution company, or self-assessing purchaser liable for the 57783
tax shall pay interest, calculated at the rate per annum 57784
prescribed by section 5703.47 of the Revised Code, from the date 57785
the tax payment was due to the date of payment or to the date an 57786
assessment is issued, whichever occurs first. Interest shall be 57787
paid in the same manner as the tax, and the commissioner may 57788
collect the interest by assessment pursuant to section 5727.89 of 57789
the Revised Code. 57790

(D) Not later than the tenth day of each month, a qualified 57791
end user not making the election to self-assess under division (C) 57792
of section 5727.81 of the Revised Code shall report in writing to 57793
the electric distribution company that distributes electricity to 57794
the end user the kilowatt hours that were consumed as a qualified 57795
end user in a qualifying manufacturing process for the prior month 57796
and the number of days, if any, on which the end user was not a 57797
qualified end user. For each calendar day during that month, a 57798
qualified end user shall report the kilowatt hours that were not 57799
used in a qualifying manufacturing process. For each calendar day 57800
the end user was not a qualified end user, the end user shall 57801
report in writing to the electric distribution company the total 57802
number of kilowatt hours used on that day, and the electric 57803
distribution company shall pay the tax imposed under section 57804
5727.81 of the Revised Code on each kilowatt hour that was not 57805
distributed to a qualified end user in a qualifying manufacturing 57806
process. The electric distribution company may rely in good faith 57807
on a qualified end user's report filed under this division. If it 57808
is determined that the end user was not a qualified end user for 57809
any calendar day or the quantity of electricity used by the 57810
qualified end user in a qualifying manufacturing process was 57811

overstated, the tax commissioner shall assess and collect any tax 57812
imposed under section 5727.81 of the Revised Code directly from 57813
the qualified end user. As requested by the commissioner, each end 57814
user reporting to an electric distribution company that it is a 57815
qualified end user shall provide documentation to the commissioner 57816
that establishes the volume of electricity consumed daily by the 57817
qualified end user and the total number of kilowatt hours consumed 57818
in a qualifying manufacturing process. 57819

(E) The tax commissioner shall immediately pay to the 57820
treasurer of state all amounts that the tax commissioner receives 57821
under this section. The treasurer of state shall credit such 57822
amounts in accordance with this chapter. 57823

Sec. 5727.84. (A) As used in this section and sections 57824
5727.85, 5727.86, and 5727.87 of the Revised Code: 57825

(1) "School district" means a city, local, or exempted 57826
village school district. 57827

(2) "Joint vocational school district" means a joint 57828
vocational school district created under section 3311.16 of the 57829
Revised Code, and includes a cooperative education school district 57830
created under section 3311.52 or 3311.521 of the Revised Code and 57831
a county school financing district created under section 3311.50 57832
of the Revised Code. 57833

(3) "Local taxing unit" means a subdivision or taxing unit, 57834
as defined in section 5705.01 of the Revised Code, a park district 57835
created under Chapter 1545. of the Revised Code, or a township 57836
park district established under section 511.23 of the Revised 57837
Code, but excludes school districts and joint vocational school 57838
districts. 57839

(4) "State education aid" means the sum of state aid amounts 57840
computed for a school district or joint vocational school district 57841

under Chapter 3317. of the Revised Code. 57842

(5) "State education aid offset" means the amount determined 57843
for each school district or joint vocational school district under 57844
division (A)(1) of section 5727.85 of the Revised Code. 57845

(6) "Recognized valuation" has the same meaning as in section 57846
3317.02 of the Revised Code. 57847

(7) "Electric company tax value loss" means the amount 57848
determined under division (D) of this section. 57849

(8) "Natural gas company tax value loss" means the amount 57850
determined under division (E) of this section. 57851

(9) "Tax value loss" means the sum of the electric company 57852
tax value loss and the natural gas company tax value loss. 57853

(10) "Fixed-rate levy" means any tax levied on property other 57854
than a fixed-sum levy. 57855

(11) "Fixed-rate levy loss" means the amount determined under 57856
division (G) of this section. 57857

(12) "Fixed-sum levy" means a tax levied on property at 57858
whatever rate is required to produce a specified amount of tax 57859
money or levied in excess of the ten-mill limitation to pay debt 57860
charges, and includes school district emergency levies imposed 57861
pursuant to section 5705.194 of the Revised Code. 57862

(13) "Fixed-sum levy loss" means the amount determined under 57863
division (H) of this section. 57864

(14) "Consumer price index" means the consumer price index 57865
(all items, all urban consumers) prepared by the bureau of labor 57866
statistics of the United States department of labor. 57867

(B) The kilowatt-hour tax receipts fund is hereby created in 57868
the state treasury and shall consist of money arising from the tax 57869
imposed by section 5727.81 of the Revised Code. ~~All~~ Beginning 57870

August 1, 2005, all money in the kilowatt-hour tax receipts fund 57871
shall be credited as follows: 57872

(1) ~~Fifty-nine~~ Sixty-nine and ~~nine two~~ two hundred ~~seventy-six~~ 57873
thirteen one-thousandths per cent, shall be credited to the 57874
general revenue fund. 57875

(2) Two and ~~six hundred forty-six~~ thirty-five one-thousandths 57876
per cent shall be credited to the local government fund, for 57877
distribution in accordance with section 5747.50 of the Revised 57878
Code. 57879

(3) ~~Three~~ Two hundred ~~seventy-eight~~ ninety-one 57880
one-thousandths per cent shall be credited to the local government 57881
revenue assistance fund, for distribution in accordance with 57882
section 5747.61 of the Revised Code. 57883

(4) ~~Twenty-five~~ Nineteen and ~~four tenths~~ five hundred 57884
thirty-eight one-thousandths per cent shall be credited to the 57885
school district property tax replacement fund, which is hereby 57886
created in the state treasury for the purpose of making the 57887
payments described in section 5727.85 of the Revised Code. 57888

(5) ~~Eleven~~ Eight and ~~six tenths~~ nine hundred twenty-three 57889
one-thousandths per cent shall be credited to the local government 57890
property tax replacement fund, which is hereby created in the 57891
state treasury for the purpose of making the payments described in 57892
section 5727.86 of the Revised Code. 57893

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the~~ 57894
~~revenue arising from the tax levied by section 5727.81 of the~~ 57895
~~Revised Code is less than five hundred fifty two million dollars,~~ 57896
~~the amount credited to the general revenue fund under division~~ 57897
~~(B)(1) of this section shall be reduced by the amount necessary to~~ 57898
~~credit to each of the funds in divisions (B)(2) and (3) of this~~ 57899
~~section the amount it would have received if the tax did raise~~ 57900
~~five hundred fifty two million dollars for that fiscal year. The~~ 57901

~~tax commissioner shall certify to the director of budget and
management the amounts that shall be credited under this division.~~ 57902
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~~(7) Beginning in fiscal year 2007, if the revenue arising
from the tax levied by section 5727.81 of the Revised Code is less
than five hundred fifty two million dollars, the amount credited
to the general revenue fund under division (B)(1) of this section
shall be reduced by the amount necessary to credit to each of the
funds in divisions (B)(2), (3), (4), and (5) of this section the
amount that it would have received if the tax did raise five
hundred fifty two million dollars for that fiscal year. The tax
commissioner shall certify to the director of budget and
management the amounts to be credited under division (B)(7) of
this section.~~ 57904
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(C) The natural gas tax receipts fund is hereby created in 57915
the state treasury and shall consist of money arising from the tax 57916
imposed by section 5727.811 of the Revised Code. All money in the 57917
fund shall be credited as follows: 57918

(1) Sixty-eight and seven-tenths per cent shall be credited 57919
to the school district property tax replacement fund for the 57920
purpose of making the payments described in section 5727.85 of the 57921
Revised Code. 57922

(2) Thirty-one and three-tenths per cent shall be credited to 57923
the local government property tax replacement fund for the purpose 57924
of making the payments described in section 5727.86 of the Revised 57925
Code. 57926

~~(3) Beginning in fiscal year 2007, if the revenue arising
from the tax levied by section 5727.811 of the Revised Code is
less than ninety million dollars, an amount equal to the
difference between the amount collected and ninety million dollars
shall be transferred from the general revenue fund to each of the
funds in divisions (C)(1) and (2) of this section in the same~~ 57927
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~~percentages as if that amount had been collected as taxes under
section 5727.811 of the Revised Code. The tax commissioner shall
certify to the director of budget and management the amounts that
shall be transferred under this division.~~

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (3) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(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.

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(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.

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(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

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(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

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(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

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(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

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(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on

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a preliminary assessment, or an amended preliminary assessment if
issued prior to March 1, 2000, and apportioned to the taxing
district for tax year 1999; 57994
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(b) The value of all natural gas company tangible personal
property, other than property described in division (E)(2) of this
section, as assessed by the tax commissioner for tax year 1999 had
the property been apportioned to the taxing district for tax year
2001, and assessed at the rates in effect for tax year 2001. 57997
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(2) The difference in the value of current gas obtained by
subtracting the amount described in division (E)(2)(b) from the
amount described in division (E)(2)(a) of this section. 58002
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(a) The three-year average assessed value of current gas as
assessed by the tax commissioner for tax years 1997, 1998, and
1999 on a preliminary assessment, or an amended preliminary
assessment if issued prior to March 1, 2001, and as apportioned in
the taxing district for those respective years; 58005
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(b) The three-year average assessed value from current gas
under division (E)(2)(a) of this section for tax years 1997, 1998,
and 1999, as reflected in the preliminary assessment, using an
assessment rate of twenty-five per cent. 58010
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(F) The tax commissioner may request that natural gas
companies, electric companies, and rural electric companies file a
report to help determine the tax value loss under divisions (D)
and (E) of this section. The report shall be filed within thirty
days of the commissioner's request. A company that fails to file
the report or does not timely file the report is subject to the
penalty in section 5727.60 of the Revised Code. 58014
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(G) Not later than January 1, 2002, the tax commissioner
shall determine for each school district, joint vocational school
district, and local taxing unit its fixed-rate levy loss, which is
the sum of its electric company tax value loss multiplied by the 58021
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tax rate in effect in tax year 1998 for fixed-rate levies and its 58025
natural gas company tax value loss multiplied by the tax rate in 58026
effect in tax year 1999 for fixed-rate levies. 58027

(H) Not later than January 1, 2002, the tax commissioner 58028
shall determine for each school district, joint vocational school 58029
district, and local taxing unit its fixed-sum levy loss, which is 58030
the amount obtained by subtracting the amount described in 58031
division (H)(2) of this section from the amount described in 58032
division (H)(1) of this section: 58033

(1) The sum of the electric company tax value loss multiplied 58034
by the tax rate in effect in tax year 1998, and the natural gas 58035
company tax value loss multiplied by the tax rate in effect in tax 58036
year 1999, for fixed-sum levies for all taxing districts within 58037
each school district, joint vocational school district, and local 58038
taxing unit. For the years 2002 through 2006, this computation 58039
shall include school district emergency levies that existed in 58040
1998 in the case of the electric company tax value loss, and 1999 58041
in the case of the natural gas company tax value loss, and all 58042
other fixed-sum levies that existed in 1998 in the case of the 58043
electric company tax value loss and 1999 in the case of the 58044
natural gas company tax value loss and continue to be charged in 58045
the tax year preceding the distribution year. For the years 2007 58046
through 2016 in the case of school district emergency levies, and 58047
for all years after 2006 in the case of all other fixed-sum 58048
levies, this computation shall exclude all fixed-sum levies that 58049
existed in 1998 in the case of the electric company tax value loss 58050
and 1999 in the case of the natural gas company tax value loss, 58051
but are no longer in effect in the tax year preceding the 58052
distribution year. For the purposes of this section, an emergency 58053
levy that existed in 1998 in the case of the electric company tax 58054
value loss, and 1999 in the case of the natural gas company tax 58055
value loss, continues to exist in a year beginning on or after 58056

January 1, 2007, but before January 1, 2017, if, in that year, the
board of education levies a school district emergency levy for an
annual sum at least equal to the annual sum levied by the board in
tax year 1998 or 1999, respectively, less the amount of the
payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax
value loss in each school district, joint vocational school
district, and local taxing unit multiplied by one-fourth of one
mill.

If the amount computed under division (H) of this section for
any school district, joint vocational school district, or local
taxing unit is greater than zero, that amount shall equal the
fixed-sum levy loss reimbursed pursuant to division (E) of section
5727.85 of the Revised Code or division (A)(2) of section 5727.86
of the Revised Code, and the one-fourth of one mill that is
subtracted under division (H)(2) of this section shall be
apportioned among all contributing fixed-sum levies in the
proportion of each levy to the sum of all fixed-sum levies within
each school district, joint vocational school district, or local
taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this
section, in computing the tax value loss, fixed-rate levy loss,
and fixed-sum levy loss, the tax commissioner shall use the
greater of the 1998 tax rate or the 1999 tax rate in the case of
levy losses associated with the electric company tax value loss,
but the 1999 tax rate shall not include for this purpose any tax
levy approved by the voters after June 30, 1999, and the tax
commissioner shall use the greater of the 1999 or the 2000 tax
rate in the case of levy losses associated with the natural gas
company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner

shall certify to the department of education the tax value loss 58088
determined under divisions (D) and (E) of this section for each 58089
taxing district, the fixed-rate levy loss calculated under 58090
division (G) of this section, and the fixed-sum levy loss 58091
calculated under division (H) of this section. The calculations 58092
under divisions (G) and (H) of this section shall separately 58093
display the levy loss for each levy eligible for reimbursement. 58094

(K) Not later than September 1, 2001, the tax commissioner 58095
shall certify the amount of the fixed-sum levy loss to the county 58096
auditor of each county in which a school district with a fixed-sum 58097
levy loss has territory. 58098

Sec. 5727.85. (A) By the thirty-first day of July of each 58099
year, beginning in 2002 and ending in 2016, the department of 58100
education shall determine the following for each school district 58101
and each joint vocational school district eligible for payment 58102
under division (C) or (D) of this section: 58103

(1) The state education aid offset, which is the difference 58104
obtained by subtracting the amount described in division (A)(1)(b) 58105
of this section from the amount described in division (A)(1)(a) of 58106
this section: 58107

(a) The state education aid computed for the school district 58108
or joint vocational school district for the current fiscal year as 58109
of the thirty-first day of July; 58110

(b) The state education aid that would be computed for the 58111
school district or joint vocational school district for the 58112
current fiscal year as of the thirty-first day of July if the 58113
recognized valuation included the tax value loss for the school 58114
district or joint vocational school district. 58115

(2) The greater of zero or the difference obtained by 58116
subtracting the state education aid offset determined under 58117

division (A)(1) of this section from the fixed-rate levy loss 58118
certified under division (J) of section 5727.84 of the Revised 58119
Code for all taxing districts in each school district and joint 58120
vocational school district. 58121

By the fifth day of August of each such year, the department 58122
of education shall certify the amount so determined under division 58123
(A)(1) of this section to the director of budget and management. 58124

(B) Not later than the thirty-first day of October of the 58125
years 2006 through 2016, the department of education shall 58126
determine all of the following for each school district: 58127

(1) The amount obtained by subtracting the district's state 58128
education aid computed for fiscal year 2002 from the district's 58129
state education aid computed for the current fiscal year; 58130

(2) The inflation-adjusted property tax loss. The 58131
inflation-adjusted property tax loss equals the fixed-rate levy 58132
loss, excluding the tax loss from levies within the ten-mill 58133
limitation to pay debt charges, determined under division (G) of 58134
section 5727.84 of the Revised Code for all taxing districts in 58135
each school district, plus the product obtained by multiplying 58136
that loss by the cumulative percentage increase in the consumer 58137
price index from January 1, 2002, to the thirtieth day of June of 58138
the current year. 58139

(3) The difference obtained by subtracting the amount 58140
computed under division (B)(1) from the amount of the 58141
inflation-adjusted property tax loss. If this difference is zero 58142
or a negative number, no further payments shall be made under 58143
division (C) of this section to the school district from the 58144
school district property tax replacement fund. 58145

(C) The department of education shall pay from the school 58146
district property tax replacement fund to each school district all 58147
of the following: 58148

(1) In February 2002, one-half of the fixed-rate levy loss 58149
certified under division (J) of section 5727.84 of the Revised 58150
Code between the twenty-first and twenty-eighth days of February. 58151

(2) From August 2002 through August 2006, one-half of the 58152
amount calculated for that fiscal year under division (A)(2) of 58153
this section between the twenty-first and twenty-eighth days of 58154
August and of February. 58155

(3) From February 2007 through August 2016, one-half of the 58156
amount calculated for that calendar year under division (B)(3) of 58157
this section between the twenty-first and twenty-eighth days of 58158
August and of February. 58159

(4) For taxes levied within the ten-mill limitation for debt 58160
purposes in tax year 1998 in the case of electric company tax 58161
value losses, and in tax year 1999 in the case of natural gas 58162
company tax value losses, payments shall be made equal to one 58163
hundred per cent of the loss computed as if the tax were a 58164
fixed-rate levy, but those payments shall extend from fiscal year 58165
2006 through fiscal year 2016. 58166

The department of education shall report to each school 58167
district the apportionment of the payments among the school 58168
district's funds based on the certifications under division (J) of 58169
section 5727.84 of the Revised Code. 58170

(D) Not later than January 1, 2002, for all taxing districts 58171
in each joint vocational school district, the tax commissioner 58172
shall certify to the department of education the fixed-rate levy 58173
loss determined under division (G) of section 5727.84 of the 58174
Revised Code. From February 2002 to August 2016, the department 58175
shall pay from the school district property tax replacement fund 58176
to the joint vocational school district one-half of the amount 58177
calculated for that fiscal year under division (A)(2) of this 58178
section between the twenty-first and twenty-eighth days of August 58179

and of February. 58180

(E)(1) Not later than January 1, 2002, for each fixed-sum 58181
levy levied by each school district or joint vocational school 58182
district and for each year for which a determination is made under 58183
division (H) of section 5727.84 of the Revised Code that a 58184
fixed-sum levy loss is to be reimbursed, the tax commissioner 58185
shall certify to the department of education the fixed-sum levy 58186
loss determined under that division. The certification shall cover 58187
a time period sufficient to include all fixed-sum levies for which 58188
the tax commissioner made such a determination. The department 58189
shall pay from the school district property tax replacement fund 58190
to the school district or joint vocational school district 58191
one-half of the fixed-sum levy loss so certified for each year 58192
between the twenty-first and twenty-eighth days of August and of 58193
February. 58194

(2) Beginning in 2003, by the thirty-first day of January of 58195
each year, the tax commissioner shall review the certification 58196
originally made under division (E)(1) of this section. If the 58197
commissioner determines that a debt levy that had been scheduled 58198
to be reimbursed in the current year has expired, a revised 58199
certification for that and all subsequent years shall be made to 58200
the department of education. 58201

(F) If the balance of the half-mill equalization fund created 58202
under section 3318.111 of the Revised Code is insufficient to make 58203
the full amount of payments required under division (D) of that 58204
section, the department of education, at the end of the third 58205
quarter of the fiscal year, shall certify to the director of 58206
budget and management the amount of the deficiency, and the 58207
director shall transfer an amount equal to the deficiency from the 58208
school district property tax replacement fund to the half-mill 58209
equalization fund. 58210

(G) Beginning in August 2002, and ending in ~~February~~ May 58211
2017, the director of budget and management shall transfer from 58212
the school district property tax replacement fund to the general 58213
revenue fund each of the following: 58214

(1) Between the twenty-eighth day of August and the fifth day 58215
of September, the lesser of one-half of the amount certified for 58216
that fiscal year under division (A)(2) of this section or the 58217
balance in the school district property tax replacement fund; 58218

(2) Between the first and fifth days of ~~March~~ May, the lesser 58219
of one-half of the amount certified for that fiscal year under 58220
division (A)(2) of this section or the balance in the school 58221
district property tax replacement fund. 58222

~~(G) By August 5, 2002, the tax commissioner shall estimate 58223
the amount of money in the school district property tax 58224
replacement fund in excess of the amount necessary to make 58225
payments under divisions (C), (D), (E), and (F) of this section. 58226
Notwithstanding division (C) of this section, the department of 58227
education, in consultation with the tax commissioner and from 58228
those excess funds, may pay any school district four and one half 58229
times the amount certified under division (A)(2) of this section. 58230
Payments shall be made in order from the smallest annual loss to 58231
the largest annual loss. A payment made under this division shall 58232
be in lieu of the payment to be made in August 2002 under division 58233
(C)(2) of this section. No payments shall be made in the manner 58234
established in this division to any school district with annual 58235
losses from permanent improvement fixed rate levies in excess of 58236
twenty thousand dollars, or annual losses from any other 58237
fixed rate levies in excess of twenty thousand dollars. A school 58238
district receiving a payment under this division is no longer 58239
entitled to any further payments under division (C) of this 58240
section. 58241~~

~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint vocational school district.~~

~~If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.~~

~~Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.~~

(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.111 of the Revised Code.

(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), ~~and (E), and (F)~~ of this section at the time the payments are to be

made, the director of budget and management shall transfer from 58273
the general revenue fund to the school district property tax 58274
replacement fund the difference between the total amount to be 58275
paid and the total amount in the school district property tax 58276
replacement fund, except that no transfer shall be made by reason 58277
of a deficiency to the extent that it results from the amendment 58278
of section 5727.84 of the Revised Code by Amended Substitute House 58279
Bill No. 95 of the 125th general assembly. 58280

(J) If all ~~or a part~~ of the territory of a school district or 58281
joint vocational school district is merged with an existing 58282
district, or if a part of the territory of a school district or 58283
joint vocational school district is transferred to another an 58284
existing or new district, the department of education, in 58285
consultation with the tax commissioner, shall adjust the payments 58286
made under this section ~~to each of the districts in proportion to~~ 58287
~~the tax value loss apportioned to the merged or transferred~~ 58288
territory as follows: 58289

(1) For the merger of all of the territory of two or more 58290
districts, the fixed-rate levy loss and the fixed-sum levy loss of 58291
the successor district shall be equal to the sum of the fixed-rate 58292
levy losses and the fixed-sum levy losses for each of the 58293
districts involved in the merger. 58294

(2) For the transfer of a part of one district's territory to 58295
an existing district, the amount of the fixed-rate levy loss that 58296
is transferred to the recipient district shall be an amount equal 58297
to the transferring district's total fixed-rate levy loss times a 58298
fraction, the numerator of which is the value of electric company 58299
tangible personal property located in the part of the territory 58300
that was transferred, and the denominator of which is the total 58301
value of electric company tangible personal property located in 58302
the entire district from which the territory was transferred. The 58303
value of electric company tangible personal property under this 58304

division shall be determined for the most recent year for which 58305
data is available. Fixed-sum levy losses for both districts shall 58306
be determined under division (J)(4) of this section. 58307

(3) For the transfer of a part of the territory of one or 58308
more districts to create a new district: 58309

(a) If the new district is created on or after January 1, 58310
2000, but before January 1, 2005, the new district shall be paid 58311
its current fixed-rate levy loss through August 2006. From 58312
February 2007 to August 2016, the new district shall be paid the 58313
lesser of: (i) the amount calculated under division (B) of this 58314
section or (ii) an amount determined under the schedule in 58315
division (A)(1) of section 5727.86 of the Revised Code, as if for 58316
this purpose the new district was a local taxing unit under that 58317
section. Fixed-sum levy losses for the districts shall be 58318
determined under division (J)(4) of this section. 58319

(b) If the new district is created on or after January 1, 58320
2005, the new district shall be deemed not to have any fixed-rate 58321
levy loss or, except as provided in division (J)(4) of this 58322
section, fixed-sum levy loss. The district or districts from which 58323
the territory was transferred shall have no reduction in their 58324
fixed-rate levy loss, or, except as provided in division (J)(4) of 58325
this section, their fixed-sum levy loss. 58326

(4) If a recipient district under division (J)(2) of this 58327
section or a new district under division (J)(3)(a) or (b) of this 58328
section takes on debt from one or more of the districts from which 58329
territory was transferred, and any of the districts transferring 58330
the territory had fixed-sum levy losses, the department of 58331
education, in consultation with the tax commissioner, shall make 58332
an equitable division of the fixed-sum levy losses. 58333

(K) There is hereby created the public utility property tax 58334
study committee, effective January 1, 2011. The committee shall 58335

consist of the following seven members: the tax commissioner, 58336
three members of the senate appointed by the president of the 58337
senate, and three members of the house of representatives 58338
appointed by the speaker of the house of representatives. The 58339
appointments shall be made not later than January 31, 2011. The 58340
tax commissioner shall be the chairperson of the committee. 58341

The committee shall study the extent to which each school 58342
district or joint vocational school district has been compensated, 58343
under sections 5727.84 and 5727.85 of the Revised Code as enacted 58344
by Substitute Senate Bill No. 3 of the 123rd general assembly and 58345
any subsequent acts, for the property tax loss caused by the 58346
reduction in the assessment rates for natural gas, electric, and 58347
rural electric company tangible personal property. Not later than 58348
June 30, 2011, the committee shall issue a report of its findings, 58349
including any recommendations for providing additional 58350
compensation for the property tax loss or regarding remedial 58351
legislation, to the president of the senate and the speaker of the 58352
house of representatives, at which time the committee shall cease 58353
to exist. 58354

The department of taxation and department of education shall 58355
provide such information and assistance as is required for the 58356
committee to carry out its duties. 58357

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 58358
Revised Code: 58359

(A) "Motor vehicle" means everything on wheels that is 58360
self-propelled, other than by muscular power or power collected 58361
from electric trolley wires and other than vehicles or machinery 58362
not designed for or employed in general highway transportation, 58363
used to transport or propel persons or property over a public 58364
highway. 58365

(B) "Commercial car" means any motor vehicle used for transporting persons or property, wholly on its own structure on a public highway.

(C) "Commercial tractor" means any motor vehicle designed and used to propel or draw a trailer or semi-trailer or both on a public highway without having any provision for carrying loads independently of such trailer or semi-trailer.

(D) "Trailer" means everything on wheels that is not self-propelled, except vehicles or machinery not designed for or employed in general highway transportation, used for carrying property wholly on its own structure and for being drawn by a motor vehicle on a public highway, including any such vehicle when formed by or operated as a combination of a semi-trailer and a vehicle of the dolly type such as that commonly known as a trailer dolly. "Trailer" does not include manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code or mobile homes as defined in division (O) of section 4501.01 of the Revised Code.

(E) "Semi-trailer" means everything on wheels that is not self-propelled, except vehicles or machinery not designed for or employed in general highway transportation, designed and used for carrying property on a public highway when being propelled or drawn by a commercial tractor when part of its own weight or the weight of its load, or both, rest upon and is carried by a commercial tractor.

(F) "Commercial tandem" means any commercial car and trailer or any commercial tractor, semi-trailer, and trailer when fastened together and used as one unit.

(G) "Commercial tractor combination" means any commercial tractor and semi-trailer when fastened together and used as one unit.

(H) "Axle" means two or more load carrying wheels mounted in a single transverse vertical plane. 58397
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(I) "Public highway" means any highway, road, or street dedicated to public use, including a highway under the control and jurisdiction of the Ohio turnpike commission created by the provisions of section 5537.02 of the Revised Code and land and lots over which the public, either as user or owner, generally has a right to pass even though such land or lots are closed temporarily by public authorities for the purpose of construction, reconstruction, maintenance, or repair. 58399
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(J) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada. 58407
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Sec. 5728.02. (A) Except as provided in section 5728.03 of the Revised Code, every person who is liable for the tax imposed by section 5728.06 of the Revised Code on the operation of a commercial car ~~with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty six thousand pounds,~~ or a commercial tractor that is, or is to be, operated or driven upon a public highway in two or more jurisdictions shall cause to be filed annually with the tax commissioner ~~a written~~ an application for a fuel use permit ~~on blank forms~~ to be furnished by the commissioner for that purpose. 58409
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Each application for a fuel use permit for a commercial car or a commercial tractor shall contain any information the tax commissioner prescribes. 58421
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(B) Upon receipt of the application, the tax commissioner shall issue to the person making the application a fuel use permit and any identification device that the commissioner considers 58424
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necessary for the proper administration of this chapter. The 58427
permit and the identification device shall be of a design and 58428
contain any information the commissioner considers necessary. The 58429
identification device shall be displayed on the commercial car or 58430
commercial tractor for which it was issued at all times in the 58431
manner the commissioner prescribes. The fuel use permits and the 58432
identification device shall not be transferable. In case of the 58433
loss of a fuel use permit or identification device, the 58434
commissioner shall issue a duplicate of the permit or device. 58435

The fuel use permit shall be valid until it expires or is 58436
suspended or surrendered. 58437

Sec. 5728.03. (A) In lieu of filing an application for an 58438
annual fuel use permit under section 5728.02 of the Revised Code 58439
and in lieu of filing returns under section 5728.08 of the Revised 58440
Code, a person who is the owner of a commercial car ~~with three or~~ 58441
~~more axles when operated alone or as part of a commercial tandem,~~ 58442
~~a commercial car with two axles that is to be operated as part of~~ 58443
~~a commercial tandem with a gross vehicle weight or a registered~~ 58444
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 58445
commercial tractor that would otherwise be liable for the tax 58446
imposed by section 5728.06 of the Revised Code, that is, or is to 58447
be, operated or driven upon a public highway, may file an 58448
application with the tax commissioner for a single-trip fuel use 58449
permit. The application shall be based on rules adopted by the tax 58450
commissioner and shall include an amount estimated to be 58451
substantially equivalent to the fuel use tax liability that the 58452
applicant will incur by driving on the highways of this state 58453
during the period covered by the single-trip permit. The amount so 58454
estimated shall be considered to be the fuel use tax liability so 58455
incurred. 58456

The commissioner may authorize independent permit services or 58457

other persons to issue single-trip fuel use permits. 58458

(B) The tax commissioner shall adopt rules establishing all 58459
of the following: 58460

(1) Procedures for the issuance of single-trip permits; 58461

(2) The length of time the permits are effective; 58462

(3) Requirements that independent permit services or other 58463
persons must meet to be authorized to issue single-trip fuel use 58464
permits and procedures for obtaining that authorization; 58465

(4) Estimates of the amount substantially equivalent to the 58466
fuel use tax liability that an applicant will incur by driving on 58467
the highways of this state during the period covered by the 58468
permit. 58469

(C) No person whose fuel use permit issued under section 58470
5728.02 of the Revised Code is currently under suspension in 58471
accordance with section 5728.11 of the Revised Code shall be 58472
issued a single-trip fuel use permit under this section. 58473

(D) All moneys collected pursuant to this section shall be 58474
deposited in the state treasury in accordance with section 5728.08 58475
of the Revised Code. 58476

Sec. 5728.04. (A) It is unlawful for any person to operate a 58477
commercial car ~~with three or more axles when operated alone or as~~ 58478
~~part of a commercial tandem, a commercial car with two axles that~~ 58479
~~is to be operated as part of a commercial tandem with a gross~~ 58480
~~vehicle weight or a registered gross vehicle weight exceeding~~ 58481
~~twenty six thousand pounds, or a commercial tractor when operated~~ 58482
~~alone or as part of a commercial tractor combination or commercial~~ 58483
~~tandem that is subject to the tax imposed by section 5728.06 of~~ 58484
the Revised Code on a public highway in two or more jurisdictions 58485
under either of the following circumstances: 58486

(1) Without a fuel use permit <u>or single trip fuel use permit</u>	58487
for such commercial car or commercial tractor.	58488
(2) With a suspended or surrendered fuel use permit for such	58489
commercial car or commercial tractor.	58490
(B) The judge or magistrate of any court finding any person	58491
guilty of unlawfully operating a commercial car or commercial	58492
tractor as provided for in this section shall immediately notify	58493
the tax commissioner of such violation and shall transmit to the	58494
tax commissioner the name and the permanent address of the owner	58495
of the commercial car or commercial tractor operated in violation	58496
of this section, the registration number, the state of	58497
registration, and the certificate of title number of the	58498
commercial car or commercial tractor. The commercial car or	58499
commercial tractor involved in a violation of division (A)(1) or	58500
(2) of this section may be detained until a valid fuel use permit	58501
is obtained or reinstated.	58502
Sec. 5728.06. (A) For the following purposes, an excise tax	58503
is hereby imposed on the use of motor fuel to operate on the	58504
public highways of this state a commercial car with three or more	58505
axles, <u>regardless of weight</u> , operated alone or as part of a	58506
commercial tandem, a commercial car with two axles operated as	58507
part of a commercial tandem having a gross vehicle weight or	58508
registered gross vehicle weight exceeding twenty-six thousand	58509
pounds <u>operated alone or as part of a commercial tandem</u> , or a	58510
commercial tractor operated alone or as part of a commercial	58511
tractor combination or commercial tandem: to provide revenue for	58512
maintaining the state highway system, to widen existing surfaces	58513
on such highways, to resurface such highways, to enable the	58514
counties of the state properly to plan for, maintain, and repair	58515
their roads, to enable the municipal corporations to plan,	58516
construct, reconstruct, repave, widen, maintain, repair, clear,	58517

and clean public highways, roads, and streets; to pay that portion 58518
of the construction cost of a highway project that a county, 58519
township, or municipal corporation normally would be required to 58520
pay, but that the director of transportation, pursuant to division 58521
(B) of section 5531.08 of the Revised Code, determines instead 58522
will be paid from moneys in the highway operating fund; to 58523
maintain and repair bridges and viaducts; to purchase, erect, and 58524
maintain street and traffic signs and markers; to purchase, erect, 58525
and maintain traffic lights and signals; to pay the costs 58526
apportioned to the public under section 4907.47 of the Revised 58527
Code; and to supplement revenue already available for such 58528
purposes, to distribute equitably among those persons using the 58529
privilege of driving motor vehicles upon such highways and streets 58530
the cost of maintaining and repairing the same, and to pay the 58531
interest, principal, and charges on bonds and other obligations 58532
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 58533
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 58534
imposed in the same amount as the motor fuel tax imposed under 58535
Chapter 5735. of the Revised Code plus an additional tax of three 58536
cents per gallon of motor fuel used before July 1, 2004, provided 58537
that the additional tax shall be reduced to two cents per gallon 58538
of motor fuel used from July 1, 2004 through June 30, 2005, as 58539
determined by the gallons consumed while operated on the public 58540
highways of this state. Subject to section 5735.292 of the Revised 58541
Code, on and after July 1, 2005, the tax shall be imposed in the 58542
same amount as the motor fuel tax imposed under Chapter 5735. of 58543
the Revised Code. Payment of the fuel use tax shall be made by the 58544
purchase of motor fuel within Ohio of such gallons as is 58545
equivalent to the gallons consumed while operating such a motor 58546
vehicle on the public highways of this state, or by direct 58547
remittance to the treasurer of state with the fuel use tax return 58548
filed pursuant to section 5728.08 of the Revised Code. 58549

Any person subject to the tax imposed under this section who 58550

purchases motor fuel in this state for use in another state in 58551
excess of the amount consumed while operating such motor vehicle 58552
on the public highways of this state shall be allowed a credit 58553
against the tax imposed by this section or a refund equal to the 58554
motor fuel tax paid to this state on such excess. No such credit 58555
or refund shall be allowed for taxes paid to any state that 58556
imposes a tax on motor fuel purchased or obtained in this state 58557
and used on the highways of such other state but does not allow a 58558
similar credit or refund for the tax paid to this state on motor 58559
fuel purchased or acquired in the other state and used on the 58560
public highways of this state. 58561

The tax commissioner is authorized to determine whether such 58562
credits or refunds are available and to prescribe such rules as 58563
are required for the purpose of administering this chapter. 58564

(B) Within sixty days after the last day of each month, the 58565
tax commissioner shall determine the amount of motor fuel tax 58566
allowed as a credit against the tax imposed by this section. The 58567
commissioner shall certify the amount to the director of budget 58568
and management and the treasurer of state, who shall credit the 58569
amount in accordance with section 5728.08 of the Revised Code from 58570
current revenue arising from the tax levied by section 5735.05 of 58571
the Revised Code. 58572

(C) The owner of each commercial car and commercial tractor 58573
subject to sections 5728.01 to 5728.14 of the Revised Code is 58574
liable for the payment of the full amount of the taxes imposed by 58575
this section. 58576

An owner who is a person regularly engaged, for compensation, 58577
in the business of leasing or renting motor vehicles without 58578
furnishing drivers may designate that the lessee of a motor 58579
vehicle leased for a period of thirty days or more shall report 58580
and pay the tax incurred during the duration of the lease. An 58581

owner who is an independent contractor that furnishes both the
driver and motor vehicle, may designate that the person so
furnished with the driver and motor vehicle for a period of thirty
days or more shall report and pay the tax incurred during that
period. An independent contractor that is not an owner, but that
furnishes both the driver and motor vehicle and that has been
designated by the owner of the motor vehicle to report and pay the
tax, may designate that the person so furnished with driver and
motor vehicle for a period of thirty days or more shall report and
pay the tax incurred during that period.

Sec. 5728.08. Except as provided in section 5728.03 of the
Revised Code ~~and except as otherwise provided in this section,~~
whoever is liable for the payment of the tax levied by section
5728.06 of the Revised Code, on or before the last day of each
January, April, July, and October, shall file with the tax
commissioner, on forms prescribed by the commissioner, a fuel use
tax return and make payment of the full amount of the tax due for
the operation of each commercial car and commercial tractor for
the preceding three calendar months. ~~If the commercial cars or
commercial tractors are farm trucks and the amount of motor fuel
used to operate the trucks during the preceding twelve calendar
months was less than fifteen thousand gallons, the fuel use tax
return shall be filed and the full amount of tax due paid on or
before the last day of each July for the preceding twelve calendar
months. If the commercial cars or commercial tractors are farm
trucks and the amount of motor fuel used to operate the trucks
during the preceding twelve calendar months was fifteen thousand
gallons or more, the fuel use tax return shall be filed and the
full amount of the tax due paid either on or before the last day
of each July for the preceding twelve calendar months, or on or
before the last day of each January, April, July, and October for
the preceding three calendar months, at the option of the person~~

~~liable for payment of the tax. If the commercial cars or 58614
commercial tractors are not farm trucks, and if, in the estimation 58615
of the commissioner, the amount of the tax due does not warrant 58616
quarterly filing, the commissioner may authorize the filing of the 58617
fuel use tax return and payment of the full amount due on or 58618
before the last day of each July for the preceding twelve months. 58619~~

The commissioner shall immediately forward to the treasurer 58620
of state all money received from the tax levied by section 5728.06 58621
of the Revised Code. 58622

The treasurer of state shall place to the credit of the tax 58623
refund fund created by section 5703.052 of the Revised Code, out 58624
of receipts from the taxes levied by section 5728.06 of the 58625
Revised Code, amounts equal to the refund certified by the tax 58626
commissioner pursuant to section 5728.061 of the Revised Code. 58627
Receipts from the tax shall be used by the commissioner to defray 58628
expenses incurred by the department of taxation in administering 58629
sections 5728.01 to 5728.14 of the Revised Code. 58630

All moneys received in the state treasury from taxes levied 58631
by section 5728.06 of the Revised Code and fees assessed under 58632
section 5728.03 of the Revised Code that are not required to be 58633
placed to the credit of the tax refund fund as provided by this 58634
section shall, during each calendar year, be credited to the 58635
highway improvement bond retirement fund created by section 58636
5528.12 of the Revised Code until the commissioners of the sinking 58637
fund certify to the treasurer of state, as required by section 58638
5528.17 of the Revised Code, that there are sufficient moneys to 58639
the credit of the highway improvement bond retirement fund to meet 58640
in full all payments of interest, principal, and charges for the 58641
retirement of bonds and other obligations issued pursuant to 58642
Section 2g of Article VIII, Ohio Constitution, and sections 58643
5528.10 and 5528.11 of the Revised Code due and payable during the 58644
current calendar year and during the following calendar year. From 58645

the date of the receipt of the certification required by section 58646
5528.17 of the Revised Code by the treasurer of state until the 58647
thirty-first day of December of the calendar year in which the 58648
certification is made, all moneys received in the state treasury 58649
from taxes levied under section 5728.06 of the Revised Code and 58650
fees assessed under section 5728.03 of the Revised Code that are 58651
not required to be placed to the credit of the tax refund fund as 58652
provided by this section shall be credited to the highway 58653
obligations bond retirement fund created by section 5528.32 of the 58654
Revised Code until the commissioners of the sinking fund certify 58655
to the treasurer of state, as required by section 5528.38 of the 58656
Revised Code, that there are sufficient moneys to the credit of 58657
the highway obligations bond retirement fund to meet in full all 58658
payments of interest, principal, and charges for the retirement of 58659
bonds and other obligations issued pursuant to Section 2i of 58660
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 58661
of the Revised Code due and payable during the current calendar 58662
year and during the following calendar year. From the date of the 58663
receipt of the certification required by section 5528.38 of the 58664
Revised Code by the treasurer of state until the thirty-first day 58665
of December of the calendar year in which the certification is 58666
made, all moneys received in the state treasury from taxes levied 58667
under section 5728.06 of the Revised Code and fees assessed under 58668
section 5728.03 of the Revised Code that are not required to be 58669
placed to the credit of the tax refund fund as provided by this 58670
section shall be credited to the highway operating fund created by 58671
section 5735.291 of the Revised Code, except as provided by the 58672
following paragraph of this section. 58673

From the date of the receipt by the treasurer of state of 58674
certifications from the commissioners of the sinking fund, as 58675
required by sections 5528.18 and 5528.39 of the Revised Code, 58676
certifying that the moneys to the credit of the highway 58677

improvement bond retirement fund are sufficient to meet in full 58678
all payments of interest, principal, and charges for the 58679
retirement of all bonds and other obligations that may be issued 58680
pursuant to Section 2g of Article VIII, Ohio Constitution, and 58681
sections 5528.10 and 5528.11 of the Revised Code, and to the 58682
credit of the highway obligations bond retirement fund are 58683
sufficient to meet in full all payments of interest, principal, 58684
and charges for the retirement of all obligations issued pursuant 58685
to Section 2i of Article VIII, Ohio Constitution, and sections 58686
5528.30 and 5528.31 of the Revised Code, all moneys received in 58687
the state treasury from the taxes levied under section 5728.06 and 58688
fees assessed under section 5728.03 of the Revised Code that are 58689
not required to be placed to the credit of the tax refund fund as 58690
provided by this section, shall be deposited to the credit of the 58691
highway operating fund. 58692

~~As used in this section, "farm truck" means any commercial 58693
ear or commercial tractor that is registered as a farm truck under 58694
Chapter 4503. of the Revised Code. 58695~~

Sec. 5729.08. (A) As used in this section, "tax otherwise 58696
due" means the tax imposed on a foreign insurance company under 58697
section 5729.03 of the Revised Code reduced by the total amount of 58698
all other nonrefundable credits, if any, that the foreign 58699
insurance company is entitled to claim. 58700

(B) Upon the issuance of a tax credit certificate by the Ohio 58701
venture capital authority under section 150.07 of the Revised 58702
Code, a credit may be claimed against the tax imposed on a foreign 58703
insurance company under section 5729.03 of the Revised Code. The 58704
credit shall be claimed in the calendar year specified in the 58705
certificate issued by the authority. 58706

(C) If the company elected a refundable credit under section 58707
150.07 of the Revised Code and if the amount of the credit shown 58708

on the certificate does not exceed the tax otherwise due, then for 58709
the calendar year the company shall claim a refundable credit 58710
equal to the amount of the credit shown on the certificate. 58711

(D) If the company elected a refundable credit under section 58712
150.07 of the Revised Code, and the amount of the credit shown on 58713
the certificate exceeds the tax otherwise due ~~under section~~ 58714
~~5729.03 of the Revised Code, than for the calendar year~~ the 58715
company may receive a refund equal to seventy five per cent of 58716
such excess. If shall claim a refundable credit equal to the sum 58717
of the following: 58718

(1) The amount, if any, of the tax otherwise due; 58719

(2) Seventy-five per cent of the difference between the 58720
amount of the refundable credit shown on the certificate and the 58721
tax otherwise due. 58722

(E) If the company elected a nonrefundable credit, the amount 58723
of the credit shown on the certificate shall not exceed the amount 58724
of tax otherwise due. If the company elected a nonrefundable 58725
credit and the credit to which the company would otherwise be 58726
entitled under this section for any calendar year is greater than 58727
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 58728
the excess shall be allowed as a nonrefundable credit in each of 58729
the ensuing ten calendar years, but the amount of any excess 58730
credit allowed in the ensuing calendar year shall be deducted from 58731
the balance carried forward to the next calendar year. 58732

Sec. 5731.01. As used in this chapter: 58733

(A) The "value of the gross estate" of the decedent shall 58734
include, to the extent provided in sections 5731.03 to 5731.131 of 58735
the Revised Code, the value, on the ~~due~~ date of the decedent's 58736
death or on an alternate valuation date prescribed by division (D) 58737
of this section, of all property, real or personal, tangible or 58738

intangible, wherever situated, except real property situated and 58739
tangible personal property having an actual situs outside of this 58740
state. 58741

(B) Subject to the provisions of section 5731.011 of the 58742
Revised Code that permit a valuation of qualified farm property at 58743
its value for its actual qualified use, the value of any property 58744
included in the gross estate shall be the price at which such 58745
property would change hands between a willing buyer and a willing 58746
seller, neither being under any compulsion to buy or sell and both 58747
having reasonable knowledge of relevant facts. All relevant facts 58748
and elements of value as of the valuation date shall be considered 58749
in determining such value. 58750

The rulings and regulations of the internal revenue service 58751
and decisions of the federal courts defining the principles 58752
applicable in determining fair market value for purposes of the 58753
federal estate tax imposed by Subchapter A, Chapter 11 of the 58754
Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall 58755
be applied in determining fair market value for purposes of the 58756
estate taxes imposed by this chapter, to the extent that these 58757
rulings, regulations, and decisions are not inconsistent with the 58758
express provisions of this chapter, but the actual determination 58759
of the fair market value by the internal revenue service of any 58760
asset included in the gross estate is not controlling for purposes 58761
of the estate taxes imposed by this chapter, unless the person 58762
filing the estate tax return and the tax commissioner have agreed 58763
in writing to be bound by the federal determination, as provided 58764
in section 5731.26 of the Revised Code. 58765

(C) In the case of stock and securities of a corporation the 58766
value of which, by reason of their not being listed on an exchange 58767
and by reason of the absence of sales of them, cannot be 58768
determined with reference to bid and asked prices, or with 58769
reference to sales prices, the value of them shall be determined 58770

by taking into consideration, in addition to all other factors, 58771
the value of stock or securities of corporations engaged in the 58772
same or a similar line of business which are listed on an exchange 58773
or which are traded actively in the over-the-counter market. 58774

If a valuation of securities is undertaken by reference to 58775
market transactions and if the block of securities to be valued is 58776
so large in relation to actual sales on existing markets that it 58777
could not be liquidated in a reasonable time without depressing 58778
the market, the price at which the block could be sold, as such, 58779
outside the usual market, as through an underwriter, shall be 58780
considered in determining the value of such block of securities. 58781

(D) "Alternate valuation date" means the date for valuation 58782
of a gross estate permitted by filing an election under this 58783
division. Whether or not an alternate valuation date election is 58784
available to an estate for federal estate tax purposes or, if 58785
available, is made for the estate, the value of the gross estate 58786
may be determined, if the person required to file the estate tax 58787
return so elects, by valuing all the property included in the 58788
gross estate on the alternate date, if any, provided in section 58789
2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a),~~ 58790
~~as amended~~ as such section generally applies, for federal estate 58791
tax purposes, to the estates of persons dying on the decedent's 58792
date of death. 58793

No deduction under this chapter of any item shall be allowed 58794
if allowance is, in effect, given by use of the alternate 58795
valuation date. In the determination of any tax liability of any 58796
estate in which an election is filed under this division, all 58797
provisions in this chapter ~~which~~ that refer to value at the time 58798
of the decedent's death shall be construed for all purposes to 58799
mean the value of such property used in determining the value of 58800
the gross estate. For the purposes of the charitable deduction 58801
under section 5731.17 of the Revised Code, any bequest, legacy, 58802

devise, or transfer enumerated in it shall be valued as of the 58803
date of the decedent's death with adjustment for any difference in 58804
value, not due to mere lapse of time or the occurrence or 58805
nonoccurrence of a contingency, of the property as of the date six 58806
months after the decedent's death, or in case of its earlier 58807
disposition, on such date of disposition. 58808

An election under this division shall be exercised on the 58809
estate tax return by the person required to file the return. When 58810
made, an election under this division is irrevocable. An election 58811
cannot be exercised under this division if a return is filed more 58812
than one year after the time prescribed, including any extensions 58813
of time granted, pursuant to law for filing the return. 58814

(E) Unless otherwise indicated by the context, "county" means 58815
one of the following: 58816

(1) The county in which the decedent's estate is 58817
administered; 58818

(2) If no administration of the decedent's estate is being 58819
had, the county of residence of the decedent at the time of ~~his~~ 58820
death; 58821

(3) If the decedent dies a resident of another state, any 58822
county in which any property subject to tax is located. 58823

(F) "Internal Revenue Code" means the "Internal Revenue Code 58824
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 58825

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) 58826
of this section, the value of the gross estate shall include the 58827
value of all property, to the extent of any interest in property, 58828
of which the decedent has at any time made a transfer, by trust or 58829
otherwise, in contemplation of ~~his~~ death. 58830

(B) Any transfer, except as provided in division (C) of this 58831
section, by trust or otherwise, made within a period of three 58832

years ending with the date of the decedent's death shall be deemed 58833
to have been made in contemplation of death, unless the contrary 58834
is shown. No transfer made before that three-year period shall be 58835
treated as having been made in contemplation of death. 58836

(C) This section does not apply to any of the following: 58837

(1) A bona fide sale for an adequate and full consideration 58838
in money or money's worth; 58839

(2) A transfer of property that would not be included in the 58840
decedent's gross estate if retained by ~~him~~ the decedent until 58841
death; 58842

(3) The first ten thousand dollars of the transfers that were 58843
made by the decedent to each transferee, other than the spouse of 58844
the decedent, in each calendar year, but only to the extent that 58845
those transfers qualify as present interests under section 2503(b) 58846
and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as 58847
~~amended~~. The exclusion provided by division (C)(3) of this section 58848
does not apply to any portion of a transfer that is treated as 58849
being made by the spouse of the decedent under section 2513 of the 58850
"Internal Revenue Code of 1986," 26 U.S.C. 2513, as ~~amended~~. 58851

(4) A transfer of property made to the spouse of the 58852
transferor, except as provided in section 5731.131 of the Revised 58853
Code; 58854

(5) Federal or state gift taxes paid with respect to any 58855
includible transfer. 58856

~~(D) The amendments made to this section by Amended Substitute 58857
House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th 58858
general assembly that are effective on July 1, 1993, shall apply 58859
only to the estates of decedents who die on or after that date. 58860~~

Sec. 5731.131. ~~(A)~~ The value of the gross estate shall 58861
include the value of any property in which the decedent had an 58862

income interest for life as follows: 58863

~~(1)(A)~~ If a marital deduction was allowed with respect to the 58864
transfer of such property to the decedent under section 2523(f) of 58865
the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as 58866
amended, in connection with the determination of the value of the 58867
taxable estate of the decedent's predeceasing spouse; 58868

~~(2)(B)~~ If the decedent's predeceasing spouse was not a 58869
resident of this state at the time of his death and if a marital 58870
deduction was allowed with respect to the transfer of such 58871
property to the decedent under section 2056(b)(7) of the "Internal 58872
Revenue Code of 1986," 26 U.S.C. 2056(b)(7), as amended, in 58873
connection with the determination of the value of the taxable 58874
estate of the decedent's predeceasing spouse; 58875

~~(3)(C)~~ If the decedent's predeceasing spouse died prior to 58876
July 1, 1993, and if a marital deduction was allowed with respect 58877
to the transfer of such property to the decedent under division 58878
(A)(1) of section 5731.15 of the Revised Code as it existed prior 58879
to July 1, 1993, in connection with the determination of the value 58880
of the taxable estate of the decedent's predeceasing spouse; 58881

~~(4)(D)~~ If a qualified terminable interest property deduction 58882
was allowed with respect to the transfer of such property to the 58883
decedent under division (B) of section 5731.15 of the Revised 58884
Code, in connection with the determination of the value of the 58885
taxable estate of the decedent's predeceasing spouse. 58886

~~(B) The amendments made to this section by Amended Substitute 58887
House Bill No. 111 and substitute Senate Bill No. 336 of the 118th 58888
general assembly that are effective on July 1, 1993, shall apply 58889
only to the estates of decedents who die on or after that date. 58890~~

Sec. 5731.14. For purposes of the tax levied by section 58891
5731.02 of the Revised Code, the value of the taxable estate shall 58892

be determined by deducting from the value of the gross estate 58893
deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 58894
of the Revised Code. 58895

Sec. 5731.18. (A) In addition to the tax levied by section 58896
5731.02 of the Revised Code, a tax is hereby levied upon the 58897
transfer of the estate of every person dying on or after July 1, 58898
1968, who, at the time of ~~his~~ death was a resident of this state, 58899
in an amount equal to the maximum credit allowable by subtitle B, 58900
~~chapter~~ Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C.~~ 58901
~~2011, as amended~~, for any taxes paid to any state. 58902

(B) The tax levied on any estate under this section shall be 58903
credited with the amount of the tax levied under section 5731.02 58904
of the Revised Code and with the amount of any estate, 58905
inheritance, legacy, or succession taxes actually paid to any 58906
state or territory of the United States or to the District of 58907
Columbia on any property included in the decedent's gross estate 58908
for federal estate tax purposes. 58909

(C) The additional tax levied under this section shall be 58910
administered, collected, and paid as provided in section 5731.24 58911
of the Revised Code. 58912

Sec. 5731.181. (A) For purposes of this section, 58913
"generation-skipping transfer," "taxable distribution," and 58914
"taxable termination" have the same meaning as in Chapter 13 of 58915
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 58916
~~26 U.S.C. 2601-2624, as amended.~~ 58917

(B) A tax is hereby levied upon every generation-skipping 58918
transfer of property having a situs in this state, that occurs at 58919
the same time as, and as a result of, the death of an individual, 58920
in an amount equal to the credit allowed by Chapter 13 of subtitle 58921
B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718, 26 U.S.C.~~ 58922

~~2601-2624, as amended~~, for any taxes paid to any state in respect 58923
of any property included in the generation-skipping transfer. 58924

For purposes of this division, "property having a situs in 58925
this state" includes all the following: 58926

(1) Real property situated in this state; 58927

(2) Tangible personal property having an actual situs in this 58928
state; 58929

(3) Intangible personal property employed in carrying on a 58930
business in this state; 58931

(4) Intangible personal property owned by a trust, the 58932
trustee of which resides in or has its principal place of business 58933
in this state, or, if there is more than one trustee of the trust, 58934
the principal place of administration of which is in this state. 58935

(C) The return with respect to the generation-skipping tax 58936
levied by division (B) of this section shall be filed in the form 58937
that the tax commissioner shall prescribe, on or before the day 58938
prescribed by law, including extensions, for filing the 58939
generation-skipping transfer tax return under Chapter 13 of 58940
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 58941
~~26 U.S.C. 2601-2624, as amended~~, for the same generation-skipping 58942
transfer. The return shall be filed by the distributee in the case 58943
of a taxable distribution and by the trustee in the case of a 58944
taxable termination. 58945

(D) The generation-skipping tax levied by division (B) of 58946
this section shall be paid, without notice or demand by the tax 58947
commissioner, with the return, and shall be charged, collected, 58948
and administered in the same manner as estate taxes levied by this 58949
chapter. This chapter is generally applicable to, except to the 58950
extent it is inconsistent with the nature of, the 58951
generation-skipping tax. 58952

(E) If another state levies a generation-skipping tax on a transfer described in division (B) of this section, the tax commissioner may enter into a compromise of the generation-skipping tax levied by division (B) of this section in the manner provided in section 5731.35 of the Revised Code, except that no approval of any probate court is required. If such a compromise agreement is made, no interest and penalties shall accrue for the period prior to the execution of the agreement and for sixty days after its execution.

Sec. 5731.22. (A) If the executor, administrator, or other person required to file a return fails to file the return required by this chapter or to pay the tax due under this chapter on or before the date prescribed therefor, determined with regard to any extension of time for filing or payment, ~~unless it is shown that such failure is due to reasonable cause and not due to willful neglect,~~ there shall be added to the amount of tax as finally determined a penalty ~~determined by the tax commissioner,~~ in the amount of five ten per cent of the amount of ~~that tax if the failure is not for more than one month, or, if the failure is for more than one month, in the amount of five per cent of the amount of that tax plus an additional five per cent for each additional month or fraction of a month during which the failure continues,~~ not exceeding twenty five per cent in the aggregate. If, due to fraud, there is a failure to file the return or an underpayment of tax due under this chapter, there shall be added to the amount of tax as finally determined a penalty determined by the tax commissioner, in an amount not to exceed ten thousand dollars the tax due and unpaid. The ~~penalties~~ penalty imposed by this section shall be collected ~~at the same time and~~ in the same manner as the tax itself.

The ~~penalties~~ penalty shall be charged against the executor,

administrator, or other person having custody or control of any 58984
property the transfer of which is subject to estate tax, and such 58985
executor, administrator, or other person is personally liable for 58986
the ~~penalties. Such penalties~~ penalty. The penalty shall be 58987
divided in the same manner prescribed for the division of the tax 58988
in sections 5731.50 and 5731.51 of the Revised Code. 58989

(B) The county auditor, upon consultation with the county 58990
treasurer, shall remit a penalty imposed under this section on a 58991
person if that person applies for remission and shows that the 58992
failure to file the return or to pay the tax due under this 58993
chapter on or before the date prescribed for such filing or 58994
payment, determined with regard to any extension, was due to 58995
reasonable cause and not willful neglect. The county auditor shall 58996
notify the applicant of the remission decision by mail. If the 58997
county auditor denies the applicant's application for remission, 58998
the applicant, within sixty days after the notice of the county 58999
auditor's decision is mailed, may apply to the tax commissioner 59000
for review of the county auditor's decision. The application may 59001
be filed in person or by certified mail. If the application is 59002
filed by certified mail, the date of the United States postmark 59003
placed on the sender's receipt by the postal service shall be 59004
treated as the date of filing. The tax commissioner shall consider 59005
the application, determine whether the penalty should be remitted, 59006
and certify the determination to the applicant, the county 59007
auditor, and the county treasurer. The county auditor and county 59008
treasurer shall make any settlement, and the county treasurer 59009
shall correct the accounts required to be kept under section 59010
5731.46 of the Revised Code, as necessitated by the tax 59011
commissioner's determination. The applicant may file an exception 59012
to the tax commissioner's determination with the probate court as 59013
provided under section 5731.30 of the Revised Code. 59014

The tax commissioner may issue orders and instructions for 59015

the uniform implementation of this division by the county auditors 59016
and county treasurers of all counties, and such officers shall 59017
follow such orders and instructions. 59018

Sec. 5731.23. Subject to division (A) of section 5731.25 of 59019
the Revised Code or any other statute extending the time for 59020
payment of an estate tax, the tax levied by section 5731.02 and 59021
division (A) of section 5731.19 of the Revised Code shall, without 59022
notice or demand by the tax commissioner, be due and payable by 59023
the person liable for it, at the expiration of nine months from 59024
the date of the decedent's death, to the treasurer of the county. 59025
If any amount of tax levied by section 5731.02 or division (A) of 59026
section 5731.19 of the Revised Code is not paid on or before nine 59027
months from the date of the decedent's death, interest on such 59028
amount shall be paid for the period from such date to the date 59029
paid, computed at the ~~rate per annum prescribed by federal~~ 59030
short-term rate determined by the tax commissioner under section 59031
5703.47 of the Revised Code. Interest at the same rate shall be 59032
paid on any amount of tax determined to be due by way of 59033
deficiency from nine months from the date of the decedent's death 59034
to the date of payment thereof. Such interest shall be charged and 59035
collected in the same manner as the tax. 59036

Interest computed at the ~~rate per annum prescribed by federal~~ 59037
short-term rate determined by the tax commissioner under section 59038
5703.47 of the Revised Code shall be allowed and paid upon any 59039
overpayment of tax levied by section 5731.02 or division (A) of 59040
section 5731.19 of the Revised Code from nine months from the date 59041
of the decedent's death or the date of payment of the tax, 59042
whichever is later, to the date such overpayment is repaid. ~~Such~~ 59043
~~payment may be made upon an estimated basis whether or not a~~ 59044
~~return is filed, and shall be charged and collected in the same~~ 59045
~~manner as provided in section 5731.21 of the Revised Code.~~ 59046

At any time after nine months from the date of the decedent's death, payment of an estimated deficiency may be made and shall be credited against any deficiency of tax finally determined. Interest on any deficiency ultimately determined to be due shall be charged only upon the unpaid portion thereof.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay 59078
the proceeds of any death benefit, retirement, pension or profit 59079
sharing plan in excess of two thousand dollars, without the 59080
written consent of the tax commissioner. Such trust company or 59081
other corporation or person, however, may pay the proceeds of any 59082
death benefit, retirement, pension, or profit-sharing plan which 59083
consists of insurance on the life of the decedent payable to a 59084
beneficiary other than the estate of the insured without the 59085
written consent of the tax commissioner. 59086

(E) No safe deposit company, trust company, financial 59087
institution as defined in division (A) of section 5725.01 of the 59088
Revised Code, or other corporation or person, having in 59089
possession, control, or custody securities, assets, or other 59090
property (including the shares of the capital stock of, or other 59091
interest in, such safe deposit company, trust company, financial 59092
institution as defined in division (A) of section 5725.01 of the 59093
Revised Code, or other corporation), standing in the name of a 59094
decedent, or in trust for a decedent, or in the name of a decedent 59095
and another person or persons, and the transfer of which is 59096
taxable under Chapter 5731. of the Revised Code, shall deliver or 59097
transfer any such securities, assets, or other property which have 59098
a value as of the date of decedent's death in excess of 59099
three-fourths of the total value thereof, without the written 59100
consent of the tax commissioner. The written consent of the tax 59101
commissioner need not be obtained prior to the delivery or 59102
transfer of any such securities, assets, or other property having 59103
a value of three-fourths or less of said total value. 59104

(F) No safe deposit company, financial institution as defined 59105
in division (A) of section 5725.01 of the Revised Code, or other 59106
corporation or person having possession or control of a safe 59107
deposit box or similar receptacle standing in the name of a 59108
decedent or in the name of the decedent and another person or 59109

persons, or to which the decedent had a right of access, except 59110
when such safe deposit box or other receptacle stands in the name 59111
of a corporation or partnership, or in the name of the decedent as 59112
guardian or executor, shall deliver any of the contents thereof 59113
unless the safe deposit box or similar receptacle has been opened 59114
and inventoried in the presence of the tax commissioner or the 59115
commissioner's agent, and a written consent to transfer issued; 59116
provided, however, that a safe deposit company, financial 59117
institution, or other corporation or person having possession or 59118
control of a safe deposit box may deliver wills, deeds to burial 59119
lots, and insurance policies to a representative of the decedent, 59120
but that a representative of the safe deposit company, financial 59121
institution, or other corporation or person must supervise the 59122
opening of the box and make a written record of the wills, deeds, 59123
and policies removed. Such written record shall be included in the 59124
tax commissioner's inventory records. 59125

(G) Notwithstanding any provision of this section: 59126

(1) The tax commissioner may authorize any delivery or 59127
transfer or waive any of the foregoing requirements under such 59128
terms and conditions as the commissioner may prescribe; 59129

(2) An adult care facility, as defined in section 3722.01 of 59130
the Revised Code, or a home, as defined in section 3721.10 of the 59131
Revised Code, may transfer or use the money in a personal needs 59132
allowance account in accordance with section ~~5111.112~~ 5111.113 of 59133
the Revised Code without the written consent of the tax 59134
commissioner, and without the account having been opened and 59135
inventoried in the presence of the commissioner or the 59136
commissioner's agent. 59137

Failure to comply with this section shall render such safe 59138
deposit company, trust company, life insurance company, financial 59139
institution as defined in division (A) of section 5725.01 of the 59140

Revised Code, or other corporation or person liable for the amount 59141
of the taxes and interest due under the provisions of Chapter 59142
5731. of the Revised Code on the transfer of such stock, deposit, 59143
proceeds of an annuity or matured endowment contract or of a life 59144
insurance contract payable to the estate of a decedent, or other 59145
insurance contract taxable under Chapter 5731. of the Revised 59146
Code, proceeds of any death benefit, retirement, pension, or 59147
profit sharing plan in excess of two thousand dollars, or 59148
securities, assets, or other property of any resident decedent, 59149
and in addition thereto, to a penalty of not less than five 59150
hundred or more than five thousand dollars. 59151

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, 59152
the tax commissioner may appoint agents in the unclassified civil 59153
service who shall perform such duties as are prescribed by the 59154
commissioner. Such agents shall, as compensation, receive annually 59155
eight cents per capita for each full one thousand of the first 59156
twenty thousand of the population of the county and two cents per 59157
capita for each full one thousand over twenty thousand of the 59158
population of the county, as shown by the last federal census, 59159
which shall be paid in equal monthly installments from the 59160
undivided inheritance or estate tax in the county treasury on the 59161
warrant of the county auditor or from the county real estate 59162
assessment fund, any other provision of law to the contrary 59163
notwithstanding. The amount paid to any agent in the unclassified 59164
service for duties performed in estate tax matters, as directed by 59165
the commissioner, shall not exceed three thousand nor be less than 59166
twelve hundred dollars in any calendar year. 59167

Sec. 5733.01. (A) The tax provided by this chapter for 59168
domestic corporations shall be the amount charged against each 59169
corporation organized for profit under the laws of this state and 59170
each nonprofit corporation organized pursuant to Chapter 1729. of 59171

the Revised Code, except as provided in sections 5733.09 and 59172
5733.10 of the Revised Code, for the privilege of exercising its 59173
franchise during the calendar year in which that amount is 59174
payable, and the tax provided by this chapter for foreign 59175
corporations shall be the amount charged against each corporation 59176
organized for profit and each nonprofit corporation organized or 59177
operating in the same or similar manner as nonprofit corporations 59178
organized under Chapter 1729. of the Revised Code, under the laws 59179
of any state or country other than this state, except as provided 59180
in sections 5733.09 and 5733.10 of the Revised Code, for the 59181
privilege of doing business in this state, owning or using a part 59182
or all of its capital or property in this state, holding a 59183
certificate of compliance with the laws of this state authorizing 59184
it to do business in this state, or otherwise having nexus in or 59185
with this state under the Constitution of the United States, 59186
during the calendar year in which that amount is payable. 59187

(B) A corporation is subject to the tax imposed by section 59188
5733.06 of the Revised Code for each calendar year that it is so 59189
organized, doing business, owning or using a part or all of its 59190
capital or property, holding a certificate of compliance, or 59191
otherwise having nexus in or with this state under the 59192
Constitution of the United States, on the first day of January of 59193
that calendar year. 59194

(C) Any corporation subject to this chapter that is not 59195
subject to the federal income tax shall file its returns and 59196
compute its tax liability as required by this chapter in the same 59197
manner as if that corporation were subject to the federal income 59198
tax. 59199

(D) For purposes of this chapter, a federally chartered 59200
financial institution shall be deemed to be organized under the 59201
laws of the state within which its principal office is located. 59202

(E) ~~Any~~ For purposes of this chapter, any person, as defined 59203

in section 5701.01 of the Revised Code, shall be treated as a 59204
corporation ~~for purposes of this chapter~~ if the person is 59205
classified for federal income tax purposes as an association 59206
taxable as a corporation, and an equity interest in the person 59207
shall be treated as capital stock of the person. 59208

(F) For the purposes of this chapter, "disregarded entity" 59209
has the same meaning as in division (D) of section 5745.01 of the 59210
Revised Code. 59211

(1) A person's interest in a disregarded entity, whether held 59212
directly or indirectly, shall be treated as the person's ownership 59213
of the assets and liabilities of the disregarded entity, and the 59214
income, including gain or loss, shall be included in the person's 59215
net income under this chapter. 59216

(2) Any sale, exchange, or other disposition of the person's 59217
interest in the disregarded entity, whether held directly or 59218
indirectly, shall be treated as a sale, exchange, or other 59219
disposition of the person's share of the disregarded entity's 59220
underlying assets or liabilities, and the gain or loss from such 59221
sale, exchange, or disposition shall be included in the person's 59222
net income under this chapter. 59223

(3) The disregarded entity's payroll, property, and sales 59224
factors shall be included in the person's factors. 59225

(G) The tax a corporation is required to pay under this 59226
chapter shall be as follows: 59227

(1)(a) For financial institutions, the greater of the minimum 59228
payment required under division (E) of section 5733.06 of the 59229
Revised Code or the difference between all taxes charged the 59230
financial institution under this chapter, without regard to 59231
division (G)(2) of this section, less any credits allowable 59232
against such tax. 59233

(b) A corporation satisfying the description in division 59234

(E)(5), (6), (7), (8), or (9) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 59235
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(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section: 59244
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(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter less any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(1) and the refundable credits described in divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code; 59249
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(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or four-fifths of the difference between all taxes charged the corporation under this chapter less any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(1) and the refundable credits described in divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code; 59256
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(iii) For tax year 2007, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code 59264
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or three-fifths of the difference between all taxes charged the corporation under this chapter less any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(1) and the refundable credits described in divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code;

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(iv) For tax year 2008, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or two-fifths of the difference between all taxes charged the corporation under this chapter less any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(1) and the refundable credits described in divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code except the qualifying pass-through entity tax credit under division (A)(1) and the refundable credits under divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code;

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(v) For tax year 2009, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or one-fifth of the difference between all taxes charged the corporation under this chapter less any credits allowable against such tax except the qualifying pass-through entity tax credit described in division (A)(1) and the refundable credits described in divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code except the qualifying pass-through entity tax credit under division (A)(1) and the refundable credits under divisions (A)(29), (30), and (31) of section 5733.98 of the Revised Code;

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(vi) For tax year 2010 and each tax year thereafter, no tax.

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(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(i), (ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)(1) or any refundable credit described in division

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(A)(29), (30), or (31) of section 5733.98 of the Revised Code to 59297
which the corporation is entitled. Any unused qualifying 59298
pass-through entity tax credit is not refundable. 59299

Sec. 5733.065. (A) As used in this section, "litter stream 59300
products" means: 59301

(1) Intoxicating liquor, beer, wine, mixed beverages, or 59302
spirituous liquor as defined in section 4301.01 of the Revised 59303
Code; 59304

(2) Soft drinks as defined in section 913.22 of the Revised 59305
Code; 59306

(3) Glass, metal, plastic, or fiber containers with a 59307
capacity of less than two gallons sold for the purpose of being 59308
incorporated into or becoming a part of a product enumerated in 59309
divisions (A)(1) and (2) of this section; 59310

(4) Container crowns and closures sold for the purpose of 59311
being incorporated into or becoming a part of a product enumerated 59312
in divisions (A)(1) and (2) of this section; 59313

(5) Packaging materials transferred or intended for transfer 59314
of use or possession in conjunction with retail sales of products 59315
enumerated in divisions (A)(1) and (2) of this section; 59316

(6) Packaging materials in the finished form in which they 59317
are to be used, including sacks, bags, cups, lids, straws, plates, 59318
wrappings, boxes, or containers of any type used in the packaging 59319
or serving of food or beverages, when the food or beverages are 59320
prepared for human consumption by a restaurant or take-out food 59321
outlet at the premises where sold at retail and are delivered to a 59322
purchaser for consumption off the premises where the food or 59323
beverages are sold; 59324

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 59325

(B) For the purpose of providing additional funding for ~~the~~ 59326
~~division of recycling and litter prevention under Chapter 1502. of~~ 59327
~~the Revised Code,~~ there is hereby levied an additional tax on 59328
corporations for the privilege of manufacturing or selling litter 59329
stream products in this state. The tax imposed by this section is 59330
in addition to the tax charged under section 5733.06 of the 59331
Revised Code, computed at the rate prescribed by section 5733.066 59332
of the Revised Code. ~~This section does not apply for tax year 1981~~ 59333
~~to a corporation whose taxable year for tax year 1981 ended on or~~ 59334
~~before June 30, 1980.~~ 59335

(C) The tax shall be imposed upon each corporation subject to 59336
the tax imposed by section 5733.06 of the Revised Code that 59337
manufactures or sells litter stream products in this state. The 59338
tax for each year shall be in an amount equal to the greater of 59339
either: 59340

(1) Twenty-two hundredths of one per cent upon the value of 59341
that portion of the taxpayer's issued and outstanding shares of 59342
stock as determined under division (B) of section 5733.05 of the 59343
Revised Code that is subject to the rate contained in division (B) 59344
of section 5733.06 of the Revised Code; 59345

(2) Fourteen one-hundredths of a mill times the value of the 59346
taxpayer's issued and outstanding shares of stock as determined 59347
under division (C) of section 5733.05 of the Revised Code. 59348

The additional tax charged any taxpayer or group of combined 59349
taxpayers pursuant to this section for any tax year shall not 59350
exceed five thousand dollars. 59351

(D)(1) In the case of a corporation engaged in the business 59352
of manufacturing litter stream products, no tax shall be due under 59353
this section unless the sale of litter stream products in this 59354
state during the taxable year exceeds five per cent of the total 59355
sales in this state of the corporation during that period or 59356

unless the total sales in this state of litter stream products by 59357
the corporation during the taxable year exceed ten million 59358
dollars. 59359

(2) In the case of a corporation engaged in the business of 59360
selling litter stream products in the form in which the item is or 59361
is to be received, no tax shall be due under this section unless 59362
the corporation's sales of litter stream products in this state 59363
during the taxable year constitute more than five per cent of its 59364
total sales in this state during that period. 59365

(3) In the case of a corporation transferring possession of 59366
litter stream products included in division (A)(6) of this 59367
section, in which food or beverages prepared for human consumption 59368
are placed, when the food or beverages are prepared for retail 59369
sale at the premises where sold and are delivered to a purchaser 59370
for consumption off the premises where the food or beverages are 59371
sold, no tax shall be due under this section unless such sales for 59372
off-premises consumption during the taxable year exceed five per 59373
cent of the corporation's total annual sales during the taxable 59374
year. 59375

(E)(1) The tax imposed by this section is due in the 59376
proportions and on the dates on which the tax imposed by section 59377
5733.06 of the Revised Code may be paid without penalty. 59378

(2) Payment of the tax and any reports or returns required to 59379
enable the tax commissioner to determine the correct amount of the 59380
tax shall be submitted with and are due at the same time as 59381
payments and reports required to be submitted under this chapter. 59382

(3) If the tax is not paid in full on or before the date 59383
required by division (E)(1) of this section, the unpaid portion of 59384
the tax due and unpaid shall be subject to all provisions of this 59385
chapter for the collection of unpaid, delinquent taxes imposed by 59386
section 5733.06 of the Revised Code, except that all such taxes, 59387

interest, and penalties, when collected, shall be treated as 59388
proceeds arising from the tax imposed by this section and shall be 59389
deposited in the general revenue fund. 59390

The tax levied on corporations under this section does not 59391
prohibit or otherwise limit the authority of municipal 59392
corporations to impose an income tax on the income of such 59393
corporations. 59394

Sec. 5733.066. There shall be added to the rates contained in 59395
section 5733.06 of the Revised Code the following: 59396

(A) To the rate in division (A) of that section upon that 59397
portion of the value of the taxpayer's issued and outstanding 59398
shares of stock as determined under division (B) of section 59399
5733.05 of the Revised Code that is subject to such rate, an 59400
additional eleven-hundredths per cent upon that value to provide 59401
funding for ~~the division of recycling and litter prevention under~~ 59402
~~Chapter 1502. of the Revised Code;~~ 59403

(B) To the rate in division (B) of that section upon that 59404
portion of the value so determined that is subject to that rate, 59405
an additional twenty-two-hundredths per cent upon that value to 59406
provide funding for ~~the division~~ recycling and litter prevention 59407
~~under Chapter 1502. of the Revised Code;~~ 59408

(C) To the rate in division (C) of that section times that 59409
portion of the value of the taxpayer's issued and outstanding 59410
shares of stock as determined under division (C) of section 59411
5733.05 of the Revised Code, an additional fourteen one-hundredths 59412
mills times that value to provide funding for ~~the division of~~ 59413
recycling and litter prevention ~~under Chapter 1502. of the Revised~~ 59414
~~Code.~~ 59415

The additional tax charged any taxpayer or group of combined 59416
taxpayers pursuant to this section for any tax year shall not 59417

exceed five thousand dollars.	59418
This section does not apply to any family farm corporation as defined in section 4123.01 of the Revised Code.	59419 59420
The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.	59421 59422 59423 59424
Sec. 5733.33. (A) As used in this section:	59425
(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing. "Manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:	59426 59427 59428 59429 59430
(a) For the transmission and distribution of electricity;	59431
(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the date the property is placed in service, by persons that are not related members to the person who generates the electricity.	59432 59433 59434 59435 59436
(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner. "New manufacturing machinery and equipment" does not include property acquired after December 31, 1999, that is used:	59437 59438 59439 59440 59441 59442
(a) For the transmission and distribution of electricity;	59443
(b) For the generation of electricity, if fifty per cent or more of the electricity that the property generates is consumed, during the one-hundred-twenty-month period commencing with the	59444 59445 59446

date the property is placed in service, by persons that are not 59447
related members to the person who generates the electricity. 59448

(3)(a) "Purchase" has the same meaning as in section 59449
179(d)(2) of the Internal Revenue Code. 59450

(b) For purposes of this section, any property that is not 59451
manufactured or assembled primarily by the taxpayer is considered 59452
purchased at the time the agreement to acquire the property 59453
becomes binding. Any property that is manufactured or assembled 59454
primarily by the taxpayer is considered purchased at the time the 59455
taxpayer places the property in service in the county for which 59456
the taxpayer will calculate the county excess amount. 59457

(c) Notwithstanding section 179(d) of the Internal Revenue 59458
Code, a taxpayer's direct or indirect acquisition of new 59459
manufacturing machinery and equipment is not purchased on or after 59460
July 1, 1995, if the taxpayer, or a person whose relationship to 59461
the taxpayer is described in subparagraphs (A), (B), or (C) of 59462
section 179(d)(2) of the Internal Revenue Code, had directly or 59463
indirectly entered into a binding agreement to acquire the 59464
property at any time prior to July 1, 1995. 59465

(4) "Qualifying period" means the period that begins July 1, 59466
1995, and ends ~~December 31, 2015~~ June 30, 2005. 59467

(5) "County average new manufacturing machinery and equipment 59468
investment" means either of the following: 59469

(a) The average annual cost of new manufacturing machinery 59470
and equipment purchased for use in the county during baseline 59471
years, in the case of a taxpayer that was in existence for more 59472
than one year during baseline years. 59473

(b) Zero, in the case of a taxpayer that was not in existence 59474
for more than one year during baseline years. 59475

(6) "Partnership" includes a limited liability company formed 59476

under Chapter 1705. of the Revised Code or under the laws of any
other state, provided that the company is not classified for
federal income tax purposes as an association taxable as a
corporation.

(7) "Partner" includes a member of a limited liability
company formed under Chapter 1705. of the Revised Code or under
the laws of any other state, provided that the company is not
classified for federal income tax purposes as an association
taxable as a corporation.

(8) "Distressed area" means either a municipal corporation
that has a population of at least fifty thousand or a county that
meets two of the following criteria of economic distress, or a
municipal corporation the majority of the population of which is
situated in such a county:

(a) Its average rate of unemployment, during the most recent
five-year period for which data are available, is equal to at
least one hundred twenty-five per cent of the average rate of
unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per
cent of the median county per capita income of the United States
as determined by the most recently available figures from the
United States census bureau;

(c)(i) In the case of a municipal corporation, at least
twenty per cent of the residents have a total income for the most
recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the
county has a ratio of transfer payment income to total county
income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus
area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the director of development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the state director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.	59537 59538
(15) "Baseline years" means:	59539
(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;	59540 59541 59542
(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;	59543 59544 59545
(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment;	59546 59547 59548
(d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment;	59549 59550 59551
(e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment;	59552 59553 59554
(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	59555 59556 59557
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	59558 59559 59560
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 <u>on or after January 1, 2005, and on or before June 30, 2005,</u> of new manufacturing machinery and equipment;	59561 59562 59563 59564
(i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new	59565 59566

manufacturing machinery and equipment;	59567
(j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment;	59568
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manufacturing machinery and equipment;	59570
(k) Calendar years 2002, 2003, and 2004, with regard to a credit claimed for the purchase during calendar year 2008 of new manufacturing machinery and equipment;	59571
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manufacturing machinery and equipment;	59573
(l) Calendar years 2003, 2004, and 2005, with regard to a credit claimed for the purchase during calendar year 2009 of new manufacturing machinery and equipment;	59574
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manufacturing machinery and equipment;	59576
(m) Calendar years 2004, 2005, and 2006, with regard to a credit claimed for the purchase during calendar year 2010 of new manufacturing machinery and equipment;	59577
	59578
manufacturing machinery and equipment;	59579
(n) Calendar years 2005, 2006, and 2007, with regard to a credit claimed for the purchase during calendar year 2011 of new manufacturing machinery and equipment;	59580
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manufacturing machinery and equipment;	59582
(o) Calendar years 2006, 2007, and 2008, with regard to a credit claimed for the purchase during calendar year 2012 of new manufacturing machinery and equipment;	59583
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manufacturing machinery and equipment;	59585
(p) Calendar years 2007, 2008, and 2009, with regard to a credit claimed for the purchase during calendar year 2013 of new manufacturing machinery and equipment;	59586
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manufacturing machinery and equipment;	59588
(q) Calendar years 2008, 2009, and 2010, with regard to a credit claimed for the purchase during calendar year 2014 of new manufacturing machinery and equipment;	59589
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manufacturing machinery and equipment;	59591
(r) Calendar years 2009, 2010, and 2011, with regard to a credit claimed for the purchase during calendar year 2015 of new manufacturing machinery and equipment.	59592
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manufacturing machinery and equipment.	59594
(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	59595
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(B)(1) Subject to division (I) of this section, a nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state no later than ~~December 31, 2016~~ June 30, 2006.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) and division (I) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the

calendar year for use in a county over the county average new 59628
manufacturing machinery and equipment investment for that county. 59629

(2) Subject to division (I) of this section, as used in 59630
division (C)(2) of this section "county excess" means the 59631
taxpayer's excess cost for a county as computed under division 59632
(C)(1) of this section. 59633

Subject to division (I) of this section, a taxpayer with a 59634
county excess, whose purchases included purchases for use in any 59635
eligible area in the county, the credit amount is equal to 59636
thirteen and one-half per cent of the cost of the new 59637
manufacturing machinery and equipment purchased during the 59638
calendar year for use in the eligible areas in the county, 59639
provided that the cost subject to the thirteen and one-half per 59640
cent rate shall not exceed the county excess. If the county excess 59641
is greater than the cost of the new manufacturing machinery and 59642
equipment purchased during the calendar year for use in eligible 59643
areas in the county, the credit amount also shall include an 59644
amount equal to seven and one-half per cent of the amount of the 59645
difference. 59646

(3) If a taxpayer is allowed a credit for purchases of new 59647
manufacturing machinery and equipment in more than one county or 59648
eligible area, it shall aggregate the amount of those credits each 59649
year. 59650

(4) The taxpayer shall claim one-seventh of the credit amount 59651
for the tax year immediately following the calendar year in which 59652
the new manufacturing machinery and equipment is purchased for use 59653
in the county by the taxpayer or partnership. One-seventh of the 59654
taxpayer credit amount is allowed for each of the six ensuing tax 59655
years. Except for carried-forward amounts, the taxpayer is not 59656
allowed any credit amount remaining if the new manufacturing 59657
machinery and equipment is sold by the taxpayer or partnership or 59658

is transferred by the taxpayer or partnership out of the county 59659
before the end of the seven-year period unless, at the time of the 59660
sale or transfer, the new manufacturing machinery and equipment 59661
has been fully depreciated for federal income tax purposes. 59662

(5)(a) A taxpayer that acquires manufacturing machinery and 59663
equipment as a result of a merger with the taxpayer with whom 59664
commenced the original use in this state of the manufacturing 59665
machinery and equipment, or with a taxpayer that was a partner in 59666
a partnership with whom commenced the original use in this state 59667
of the manufacturing machinery and equipment, is entitled to any 59668
remaining or carried-forward credit amounts to which the taxpayer 59669
was entitled. 59670

(b) A taxpayer that enters into an agreement under division 59671
(C)(3) of section 5709.62 of the Revised Code and that acquires 59672
manufacturing machinery or equipment as a result of purchasing a 59673
large manufacturing facility, as defined in section 5709.61 of the 59674
Revised Code, from another taxpayer with whom commenced the 59675
original use in this state of the manufacturing machinery or 59676
equipment, and that operates the large manufacturing facility so 59677
purchased, is entitled to any remaining or carried-forward credit 59678
amounts to which the other taxpayer who sold the facility would 59679
have been entitled under this section had the other taxpayer not 59680
sold the manufacturing facility or equipment. 59681

(c) New manufacturing machinery and equipment is not 59682
considered sold if a pass-through entity transfers to another 59683
pass-through entity substantially all of its assets as part of a 59684
plan of reorganization under which substantially all gain and loss 59685
is not recognized by the pass-through entity that is transferring 59686
the new manufacturing machinery and equipment to the transferee 59687
and under which the transferee's basis in the new manufacturing 59688
machinery and equipment is determined, in whole or in part, by 59689
reference to the basis of the pass-through entity which 59690

transferred the new manufacturing machinery and equipment to the transferee. 59691
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(d) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers. 59693
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(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment. 59699
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(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years. 59713
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(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit 59719
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on a form prescribed by the department of development. The 59722
department of development shall inform the tax commissioner of the 59723
notice of intent to claim the credit. 59724

(F) The director of development shall annually certify, by 59725
the first day of January of each year during the qualifying 59726
period, the eligible areas for the tax credit for the calendar 59727
year that includes that first day of January. The director shall 59728
send a copy of the certification to the tax commissioner. 59729

(G) New manufacturing machinery and equipment for which a 59730
taxpayer claims the credit under section 5733.31, 5733.311, 59731
5747.26, or 5747.261 of the Revised Code shall not be considered 59732
new manufacturing machinery and equipment for purposes of the 59733
credit under this section. 59734

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the 59735
Revised Code, but subject to division (H)(2) of this section, the 59736
tax commissioner may issue an assessment against a person with 59737
respect to a credit claimed under this section for new 59738
manufacturing machinery and equipment described in division 59739
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment 59740
subsequently does not qualify for the credit. 59741

(2) Division (H)(1) of this section shall not apply after the 59742
twenty-fourth month following the last day of the period described 59743
in divisions (A)(1)(b) and (2)(b) of this section. 59744

(I) Notwithstanding any other provision of this section to 59745
the contrary, in the case of a qualifying controlled group, the 59746
credit available under this section to a taxpayer or taxpayers in 59747
the qualifying controlled group shall be computed as if all 59748
corporations in the group were a single corporation. The credit 59749
shall be allocated to such a taxpayer or taxpayers in the group in 59750
any amount elected for the taxable year by the group. Such 59751
election shall be revocable and amendable during the period 59752

described in division (B) of section 5733.12 of the Revised Code. 59753

This division applies to all purchases of new manufacturing 59754
machinery and equipment made on or after January 1, 2001, and to 59755
all baseline years used to compute any credit attributable to such 59756
purchases; provided, that this division may be applied solely at 59757
the election of the qualifying controlled group with respect to 59758
all purchases of new manufacturing machinery and equipment made 59759
before that date, and to all baseline years used to compute any 59760
credit attributable to such purchases. The qualifying controlled 59761
group at any time may elect to apply this division to purchases 59762
made prior to January 1, 2001, subject to the following: 59763

(1) The election is irrevocable; 59764

(2) The election need not accompany a timely filed report, 59765
but the election may accompany a subsequently filed but timely 59766
application for refund, a subsequently filed but timely amended 59767
report, or a subsequently filed but timely petition for 59768
reassessment. 59769

(J) Any credit for purchases of new manufacturing machinery 59770
and equipment made before July 1, 2005, may be claimed as provided 59771
in division (C) of this section and, each year, any amount of 59772
credit for such purchases in excess of the tax due under section 59773
5733.06 of the Revised Code after allowing for any other credits 59774
that precede the credit in the order required under section 59775
5733.98 of the Revised Code may be carried forward as provided in 59776
division (D) of this section. 59777

Sec. 5733.351. (A) As used in this section, "qualified 59778
research expenses" has the same meaning as in section 41 of the 59779
Internal Revenue Code. 59780

(B)(1) A nonrefundable credit is allowed against the tax 59781
imposed by section 5733.06 of the Revised Code for tax year 2002 59782

for a taxpayer whose taxable year for tax year 2002 ended before 59783
July 1, 2001. The credit shall equal seven per cent of the excess 59784
of qualified research expenses incurred in this state by the 59785
taxpayer between January 1, 2001, and the end of the taxable year, 59786
over the taxpayer's average annual qualified research expenses 59787
incurred in this state for the three preceding taxable years. 59788

(2) A nonrefundable credit also is allowed against the tax 59789
imposed by section 5733.06 of the Revised Code for each tax year, 59790
commencing with tax year 2004 and ending with tax year 2008. The 59791
credit shall equal seven per cent of the excess of qualified 59792
research expenses incurred in this state by the taxpayer for the 59793
taxable year over the taxpayer's average annual qualified research 59794
expenses incurred in this state for the three preceding taxable 59795
years. 59796

(3) The taxpayer shall claim the credit allowed under 59797
division (B)(1) or (2) of this section in the order required by 59798
section 5733.98 of the Revised Code. Any credit amount in excess 59799
of the tax due under section 5733.06 of the Revised Code, after 59800
allowing for any other credits that precede the credit under this 59801
section in the order required under section 5733.98 of the Revised 59802
Code, may be carried forward for seven taxable years, but the 59803
amount of the excess credit allowed in any such year shall be 59804
deducted from the balance carried forward to the next year. Any 59805
credit not fully utilized by tax year 2008 may be carried forward 59806
and applied against the tax levied by Chapter 5751. of the Revised 59807
Code to the extent allowed under section 5751.51 of the Revised 59808
Code, provided that the total number of taxable years under this 59809
section and calendar years under Chapter 5751. of the Revised Code 59810
for which the credit is carried forward shall not exceed seven. 59811

(C) In the case of a qualifying controlled group, the credit 59812
allowed under division (B)(1) or (2) of this section to taxpayers 59813
in the qualifying controlled group shall be computed as if all 59814

corporations in the qualifying controlled group were a 59815
consolidated, single taxpayer. The credit shall be allocated to 59816
such taxpayers in any amount elected for the taxable year by the 59817
qualifying controlled group. The election shall be revocable and 59818
amendable during the period prescribed by division (B) of section 59819
5733.12 of the Revised Code. 59820

Sec. 5733.352. (A) As used in this section: 59821

(1) "Borrower" means any person that receives a loan from the 59822
director of development under section 166.21 of the Revised Code, 59823
regardless of whether the borrower is subject to the taxes imposed 59824
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 59825

(2) "Related member" has the same meaning as in section 59826
5733.042 of the Revised Code. 59827

(3) "Qualified research and development loan payments" has 59828
the same meaning as in division (D) of section 166.21 of the 59829
Revised Code. 59830

(B) Beginning ~~in~~ with tax year 2004 and ending with tax year 59831
2008, a nonrefundable credit is allowed against the taxes imposed 59832
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code 59833
equal to a borrower's qualified research and development loan 59834
payments made during the calendar year immediately preceding the 59835
tax year for which the credit is claimed. The amount of the credit 59836
for a tax year shall not exceed one hundred fifty thousand 59837
dollars. No taxpayer is entitled to claim a credit under this 59838
section unless it has obtained a certificate issued by the 59839
director of development under division (D) of section 166.21 of 59840
the Revised Code. The credit shall be claimed in the order 59841
required under section 5733.98 of the Revised Code. The credit, to 59842
the extent it exceeds the taxpayer's tax liability for the tax 59843
year after allowance for any other credits that precede the credit 59844

under this section in that order, shall be carried forward to the 59845
next succeeding tax year or years until fully used. Any credit not 59846
fully utilized by tax year 2008 may be carried forward and applied 59847
against the tax levied by Chapter 5751. of the Revised Code to the 59848
extent allowed under section 5751.52 of the Revised Code. 59849

(C) A borrower entitled to a credit under this section may 59850
assign the credit, or a portion thereof, to any of the following: 59851

(1) A related member of that borrower; 59852

(2) The owner or lessee of the eligible research and 59853
development project; 59854

(3) A related member of the owner or lessee of the eligible 59855
research and development project. 59856

A borrower making an assignment under this division shall 59857
provide written notice of the assignment to the tax commissioner 59858
and the director of development, in such form as the tax 59859
commissioner prescribes, before the credit that was assigned is 59860
used. The assignor may not claim the credit to the extent it was 59861
assigned to an assignee. The assignee may claim the credit only to 59862
the extent the assignor has not claimed it. 59863

(D) If any taxpayer is a partner in a partnership or a member 59864
in a limited liability company treated as a partnership for 59865
federal income tax purposes, the taxpayer shall be allowed the 59866
taxpayer's distributive or proportionate share of the credit 59867
available through the partnership or limited liability company. 59868

(E) The aggregate credit against the taxes imposed by 59869
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 59870
Code that may be claimed under this section and section 5747.331 59871
of the Revised Code by a borrower as a result of qualified 59872
research and development loan payments attributable during a 59873
calendar year to any one loan shall not exceed one hundred fifty 59874
thousand dollars. 59875

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 59876
Chapter 5747. of the Revised Code: 59877

(A)(1) "Adjusted qualifying amount" means either of the 59878
following: 59879

(a) The sum of a each qualifying investor's distributive 59880
share of the income, gain, expense, or loss of a qualifying 59881
pass-through entity for the qualifying taxable year of the 59882
qualifying pass-through entity multiplied by the apportionment 59883
fraction defined in division (B) of this section, subject to 59884
section 5733.401 of the Revised Code and divisions (A)(2) to (7) 59885
of this section; 59886

(b) The sum of a each qualifying beneficiary's share of the 59887
qualifying net income and qualifying net gain distributed by a 59888
qualifying trust for the qualifying taxable year of the qualifying 59889
trust multiplied by the apportionment fraction defined in division 59890
(B) of this section, subject to section 5733.401 of the Revised 59891
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 59892

(2) The sum shall exclude any amount which, pursuant to the 59893
Constitution of the United States, the Constitution of Ohio, or 59894
any federal law is not subject to a tax on or measured by net 59895
income. 59896

(3) ~~The sum shall be increased by~~ For the purposes of 59897
Chapters 5733. and 5747. of the Revised Code, the profit or net 59898
income of the qualifying entity shall be increased by disallowing 59899
all amounts representing expenses, other than amounts described in 59900
division (A)(7) of this section, that the qualifying entity paid 59901
to or incurred with respect to direct or indirect transactions 59902
with one or more related members, excluding the cost of goods sold 59903
calculated in accordance with section 263A of the Internal Revenue 59904
Code and United States department of the treasury regulations 59905

issued thereunder. Nothing in division (A)(3) of this section 59906
shall be construed to limit solely to this chapter the application 59907
of section 263A of the Internal Revenue Code and United States 59908
department of the treasury regulations issued thereunder. 59909

(4) ~~The sum shall be increased by~~ For the purposes of 59910
Chapters 5733. and 5747. of the Revised Code, the profit or net 59911
income of the qualifying entity shall be increased by disallowing 59912
all recognized losses, other than losses from sales of inventory 59913
the cost of which is calculated in accordance with section 263A of 59914
the Internal Revenue Code and United States department of the 59915
treasury regulations issued thereunder, with respect to all direct 59916
or indirect transactions with one or more related members. ~~Losses~~ 59917
For the purposes of Chapters 5733. and 5747. of the Revised Code, 59918
losses from the sales of such inventory shall be allowed only to 59919
the extent calculated in accordance with section 482 of the 59920
Internal Revenue Code and United States department of the treasury 59921
regulations issued thereunder. Nothing in division (A)(4) of this 59922
section shall be construed to limit solely to this section the 59923
application of section 263A and section 482 of the Internal 59924
Revenue Code and United States department of the treasury 59925
regulations issued thereunder. 59926

(5) The sum shall be increased or decreased by an amount 59927
equal to the qualifying investor's or qualifying beneficiary's 59928
distributive or proportionate share of the amount that the 59929
qualifying entity would be required to add or deduct under 59930
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 59931
if the qualifying entity were a taxpayer for the purposes of 59932
Chapter 5747. of the Revised Code. 59933

(6) The sum shall be computed without regard to section 59934
5733.051 or division (D) of section 5733.052 of the Revised Code. 59935

(7) For the purposes of Chapters 5733. and 5747. of the 59936
Revised Code, guaranteed payments or compensation paid to 59937

investors by a qualifying entity that is not subject to the tax 59938
imposed by section 5733.06 of the Revised Code shall be considered 59939
a distributive share of income of the qualifying entity. Division 59940
(A)(7) of this section applies only to such payments or such 59941
compensation paid to an investor who at any time during the 59942
qualifying entity's taxable year holds at least a twenty per cent 59943
direct or indirect interest in the profits or capital of the 59944
qualifying entity. 59945

(B) "Apportionment fraction" means: 59946

(1) With respect to a qualifying pass-through entity other 59947
than a financial institution, the fraction calculated pursuant to 59948
division (B)(2) of section 5733.05 of the Revised Code as if the 59949
qualifying pass-through entity were a corporation subject to the 59950
tax imposed by section 5733.06 of the Revised Code; 59951

(2) With respect to a qualifying pass-through entity that is 59952
a financial institution, the fraction calculated pursuant to 59953
division (C) of section 5733.056 of the Revised Code as if the 59954
qualifying pass-through entity were a financial institution 59955
subject to the tax imposed by section 5733.06 of the Revised Code. 59956

(3) With respect to a qualifying trust, the fraction 59957
calculated pursuant to division (B)(2) of section 5733.05 of the 59958
Revised Code as if the qualifying trust were a corporation subject 59959
to the tax imposed by section 5733.06 of the Revised Code, except 59960
that the property, payroll, and sales fractions shall be 59961
calculated by including in the numerator and denominator of the 59962
fractions only the property, payroll, and sales, respectively, 59963
directly related to the production of income or gain from 59964
acquisition, ownership, use, maintenance, management, or 59965
disposition of tangible personal property located in this state at 59966
any time during the qualifying trust's qualifying taxable year or 59967
of real property located in this state. 59968

(C) "Qualifying beneficiary" means any individual that, 59969
during the qualifying taxable year of a qualifying trust, is a 59970
beneficiary of that trust, but does not include an individual who 59971
is a resident taxpayer for the purposes of Chapter 5747. of the 59972
Revised Code for the entire qualifying taxable year of the 59973
qualifying trust. 59974

(D) "Fiscal year" means an accounting period ending on any 59975
day other than the thirty-first day of December. 59976

(E) "Individual" means a natural person. 59977

(F) "Month" means a calendar month. 59978

(G) "Partnership" has the same meaning as in section 5747.01 59979
of the Revised Code. 59980

(H) "Investor" means any person that, during any portion of a 59981
taxable year of a qualifying pass-through entity, is a partner, 59982
member, shareholder, or investor in that qualifying pass-through 59983
entity. 59984

(I) Except as otherwise provided in section 5733.402 or 59985
5747.401 of the Revised Code, "qualifying investor" means any 59986
investor except those described in divisions (I)(1) to (9) of this 59987
section. 59988

(1) An investor satisfying one of the descriptions under 59989
section 501(a) or (c) of the Internal Revenue Code, a partnership 59990
with equity securities registered with the United States 59991
securities and exchange commission under section 12 of the 59992
"Securities Exchange Act of 1934," as amended, or an investor 59993
described in division (F) of section 3334.01, or division (A) or 59994
(C) of section 5733.09 of the Revised Code for the entire 59995
qualifying taxable year of the qualifying pass-through entity. 59996

(2) An investor who is either an individual or an estate and 59997
is a resident taxpayer for the purposes of section 5747.01 of the 59998

Revised Code for the entire qualifying taxable year of the 59999
qualifying pass-through entity. 60000

(3) An investor who is an individual for whom the qualifying 60001
pass-through entity makes a good faith and reasonable effort to 60002
comply fully and timely with the filing and payment requirements 60003
set forth in division (D) of section 5747.08 of the Revised Code 60004
and section 5747.09 of the Revised Code with respect to the 60005
individual's adjusted qualifying amount for the entire qualifying 60006
taxable year of the qualifying pass-through entity. 60007

(4) An investor that is another qualifying pass-through 60008
entity having only investors described in division (I)(1), (2), 60009
(3), or (6) of this section during the three-year period beginning 60010
twelve months prior to the first day of the qualifying taxable 60011
year of the qualifying pass-through entity. 60012

(5) An investor that is another pass-through entity having no 60013
investors other than individuals and estates during the qualifying 60014
taxable year of the qualifying pass-through entity in which it is 60015
an investor, and that makes a good faith and reasonable effort to 60016
comply fully and timely with the filing and payment requirements 60017
set forth in division (D) of section 5747.08 of the Revised Code 60018
and section 5747.09 of the Revised Code with respect to investors 60019
that are not resident taxpayers of this state for the purposes of 60020
Chapter 5747. of the Revised Code for the entire qualifying 60021
taxable year of the qualifying pass-through entity in which it is 60022
an investor. 60023

(6) An investor that is a financial institution required to 60024
calculate the tax in accordance with division ~~(D)~~(E) of section 60025
5733.06 of the Revised Code on the first day of January of the 60026
calendar year immediately following the last day of the financial 60027
institution's calendar or fiscal year in which ends the taxpayer's 60028
taxable year. 60029

(7) An investor other than an individual that satisfies all 60030
the following: 60031

(a) The investor submits a written statement to the 60032
qualifying pass-through entity stating that the investor 60033
irrevocably agrees that the investor has nexus with this state 60034
under the Constitution of the United States and is subject to and 60035
liable for the tax calculated under division (A) or (B) of section 60036
5733.06 of the Revised Code with respect to the investor's 60037
adjusted qualifying amount for the entire qualifying taxable year 60038
of the qualifying pass-through entity. The statement is subject to 60039
the penalties of perjury, shall be retained by the qualifying 60040
pass-through entity for no fewer than seven years, and shall be 60041
delivered to the tax commissioner upon request. 60042

(b) The investor makes a good faith and reasonable effort to 60043
comply timely and fully with all the reporting and payment 60044
requirements set forth in Chapter 5733. of the Revised Code with 60045
respect to the investor's adjusted qualifying amount for the 60046
entire qualifying taxable year of the qualifying pass-through 60047
entity. 60048

(c) Neither the investor nor the qualifying pass-through 60049
entity in which it is an investor, before, during, or after the 60050
qualifying pass-through entity's qualifying taxable year, carries 60051
out any transaction or transactions with one or more related 60052
members of the investor or the qualifying pass-through entity 60053
resulting in a reduction or deferral of tax imposed by Chapter 60054
5733. of the Revised Code with respect to all or any portion of 60055
the investor's adjusted qualifying amount for the qualifying 60056
pass-through entity's taxable year, or that constitute a sham, 60057
lack economic reality, or are part of a series of transactions the 60058
form of which constitutes a step transaction or transactions or 60059
does not reflect the substance of those transactions. 60060

(8) Any other investor that the tax commissioner may designate by rule. The tax commissioner may adopt rules including a rule defining "qualifying investor" or "qualifying beneficiary" and governing the imposition of the withholding tax imposed by section 5747.41 of the Revised Code with respect to an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for only a portion of the qualifying taxable year of the qualifying entity.

(9) An investor that is a trust or fund the beneficiaries of which, during the qualifying taxable year of the qualifying pass-through entity, are limited to the following:

(a) A person that is or may be the beneficiary of a trust subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person satisfies division (I)(9) of this section.

(c) A person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (I)(9)(c) of this section applies only if the trust, prior to the due date for filing the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, irrevocably agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and

will pay the estimated tax, and will withhold and pay the withheld
tax, as required under sections 5747.40 to 5747.453 of the Revised
Code. 60092
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For the purposes of division (I)(9) of this section, a trust
or fund shall be considered to have a beneficiary other than
persons described under divisions (I)(9)(a) to (c) of this section
if a beneficiary would not qualify under those divisions under the
doctrines of "economic reality," "sham transaction," "step
doctrine," or "substance over form." A trust or fund described in
division (I)(9) of this section bears the burden of establishing
by a preponderance of the evidence that any transaction giving
rise to the tax benefits provided under division (I)(9) of this
section does not have as a principal purpose a claim of those tax
benefits. Nothing in this section shall be construed to limit
solely to this section the application of the doctrines referred
to in this paragraph. 60095
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(J) "Qualifying net gain" means any recognized net gain with
respect to the acquisition, ownership, use, maintenance,
management, or disposition of tangible personal property located
in this state at any time during a trust's qualifying taxable year
or real property located in this state. 60108
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(K) "Qualifying net income" means any recognized income, net
of related deductible expenses, other than distributions
deductions with respect to the acquisition, ownership, use,
maintenance, management, or disposition of tangible personal
property located in this state at any time during the trust's
qualifying taxable year or real property located in this state. 60113
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(L) "Qualifying entity" means a qualifying pass-through
entity or a qualifying trust. 60119
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(M) "Qualifying trust" means a trust subject to subchapter J
of the Internal Revenue Code that, during any portion of the 60121
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trust's qualifying taxable year, has income or gain from the
acquisition, management, ownership, use, or disposition of
tangible personal property located in this state at any time
during the trust's qualifying taxable year or real property
located in this state. "Qualifying trust" does not include a
person described in section 501(c) of the Internal Revenue Code or
a person described in division (C) of section 5733.09 of the
Revised Code.

(N) "Qualifying pass-through entity" means a pass-through
entity as defined in section 5733.04 of the Revised Code,
excluding: a person described in section 501(c) of the Internal
Revenue Code; a partnership with equity securities registered
with the United States securities and exchange commission under
section 12 of the Securities Exchange Act of 1934, as amended; or
a person described in division (C) of section 5733.09 of the
Revised Code.

(O) "Quarter" means the first three months, the second three
months, the third three months, or the last three months of a
qualifying entity's qualifying taxable year.

(P) "Related member" has the same meaning as in division
(A)(6) of section 5733.042 of the Revised Code without regard to
division (B) of that section. However, for the purposes of
divisions (A)(3) and (4) of this section only, "related member"
has the same meaning as in division (A)(6) of section 5733.042 of
the Revised Code without regard to division (B) of that section,
but shall be applied by substituting "forty per cent" for "twenty
per cent" wherever "twenty per cent" appears in division (A) of
that section.

(Q) "Return" or "report" means the notifications and reports
required to be filed pursuant to sections 5747.42 to 5747.45 of
the Revised Code for the purpose of reporting the tax imposed

under section 5733.41 or 5747.41 of the Revised Code, and included 60154
declarations of estimated tax when so required. 60155

(R) "Qualifying taxable year" means the calendar year or the 60156
qualifying entity's fiscal year ending during the calendar year, 60157
or fractional part thereof, for which the adjusted qualifying 60158
amount is calculated pursuant to sections 5733.40 and 5733.41 or 60159
sections 5747.40 to 5747.453 of the Revised Code. 60160

(S) "Distributive share" includes the sum of the income, 60161
gain, expense, or loss of a disregarded entity or qualified 60162
subchapter S subsidiary. 60163

Sec. 5733.41. The purpose of the tax imposed by this section 60164
is to complement and to reinforce the tax imposed under section 60165
5733.06 of the Revised Code. 60166

For the same purposes for which the tax is levied under 60167
section 5733.06 of the Revised Code, there is hereby levied a tax 60168
on every qualifying pass-through entity having at least one 60169
qualifying investor that is not an individual. The tax imposed by 60170
this section is imposed on the sum of the adjusted qualifying 60171
amounts of the qualifying pass-through entity's qualifying 60172
investors that are not individuals at the ~~rate specified in~~ 60173
~~division (B) of section 5733.06 of the Revised Code that is in~~ 60174
~~effect on the last day of~~ following rates for the entity's taxable 60175
year years ending in the following calendar years: in 2005, six 60176
and eight-tenths per cent; in 2006, five and one-tenth per cent; 60177
in 2007, three and four-tenths per cent; in 2008, one and 60178
seven-tenths per cent; in 2009 and thereafter, zero per cent. 60179

The tax imposed by this section applies only if the 60180
qualifying entity has nexus with this state under the Constitution 60181
of the United States for any portion of the qualifying entity's 60182
qualifying taxable year, and the sum of the qualifying entity's 60183

adjusted qualifying amounts exceeds one thousand dollars for the 60184
qualifying entity's qualifying taxable year. This section does not 60185
apply to a pass-through entity if all of the partners, 60186
shareholders, members, or investors of the pass-through entity are 60187
taxpayers for the purposes of section 5733.04 of the Revised Code 60188
without regard to section 5733.09 of the Revised Code for the 60189
entire qualifying taxable year of the pass-through entity. 60190

If, prior to the due date of the return, a qualifying 60191
pass-through entity receives from an investor a written 60192
representation, under penalties of perjury, that the investor is 60193
described in division (I)(1), (2), (6), (7), (8), or (9) of 60194
section 5733.40 of the Revised Code for the qualifying 60195
pass-through entity's entire qualifying taxable year, the 60196
qualifying pass-through entity is not required to withhold or pay 60197
the taxes or estimated taxes imposed under this section or 60198
sections 5747.41 to 5747.453 of the Revised Code with respect to 60199
that investor for that qualifying taxable year, and is not subject 60200
to any interest or interest penalties for failure to withhold or 60201
pay those taxes or estimated taxes with respect to that investor 60202
for that qualifying taxable year. 60203

If, prior to the due date of the return, a qualifying trust 60204
receives from a beneficiary of that trust a written 60205
representation, under penalties of perjury, that the beneficiary 60206
is a resident taxpayer for the purposes of Chapter 5747. of the 60207
Revised Code for the qualifying trust's entire qualifying taxable 60208
year, the qualifying trust is not required to withhold or pay the 60209
taxes or estimated taxes imposed under this section or sections 60210
5747.41 to 5747.453 of the Revised Code with respect to that 60211
beneficiary for that qualifying taxable year, and is not subject 60212
to any interest or interest penalties for failure to withhold or 60213
pay those taxes or estimated taxes with respect to that 60214
beneficiary for that qualifying taxable year. 60215

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary", and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

Sec. 5733.49. (A) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code.

(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.

(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections

5733.06, 5733.065, and 5733.066 of the Revised Code after all 60246
~~nonrefundable credits, including the credit allowed under this~~ 60247
~~section, are deducted in that order, the taxpayer shall receive a~~ 60248
~~refund equal to seventy five per cent of that excess. If the~~ 60249
~~taxpayer elected a nonrefundable credit, the amount of the credit,~~ 60250
~~claimed in that order, shall not exceed the tax otherwise due~~ 60251
~~under those sections after all the taxpayer's credits are deducted~~ 60252
~~in that order. If claim a refundable credit equal to the sum of~~ 60253
~~the following:~~ 60254

(1) The amount, if any, of the tax otherwise due under 60255
sections 5733.06, 5733.065, and 5733.066 of the Revised Code after 60256
all nonrefundable credits are deducted; 60257

(2) Seventy-five per cent of the difference between the 60258
amount of the refundable credit shown on the certificate and the 60259
tax otherwise due under sections 5733.06, 5733.065, and 5733.066 60260
of the Revised Code after all nonrefundable credits are deducted. 60261

(D) If the taxpayer elected a nonrefundable credit and the 60262
credit to which the taxpayer would otherwise be entitled under 60263
this section for any tax year is greater than the tax otherwise 60264
due under sections 5733.06, 5733.065, and 5733.066 of the Revised 60265
Code, after allowing for any other credits that, under section 60266
5733.98 of the Revised Code, precede the credit allowed under this 60267
section, the excess shall be allowed as a nonrefundable credit in 60268
each of the ensuing ten tax years, but the amount of any excess 60269
credit allowed in the ensuing tax year shall be deducted from the 60270
balance carried forward to the next tax year. 60271

Sec. 5739.01. As used in this chapter: 60272

(A) "Person" includes individuals, receivers, assignees, 60273
trustees in bankruptcy, estates, firms, partnerships, 60274
associations, joint-stock companies, joint ventures, clubs, 60275
societies, corporations, the state and its political subdivisions, 60276

and combinations of individuals of any form. 60277

(B) "Sale" and "selling" include all of the following 60278
transactions for a consideration in any manner, whether absolutely 60279
or conditionally, whether for a price or rental, in money or by 60280
exchange, and by any means whatsoever: 60281

(1) All transactions by which title or possession, or both, 60282
of tangible personal property, is or is to be transferred, or a 60283
license to use or consume tangible personal property is or is to 60284
be granted; 60285

(2) All transactions by which lodging by a hotel is or is to 60286
be furnished to transient guests; 60287

(3) All transactions by which: 60288

(a) An item of tangible personal property is or is to be 60289
repaired, except property, the purchase of which would not be 60290
subject to the tax imposed by section 5739.02 of the Revised Code; 60291

(b) An item of tangible personal property is or is to be 60292
installed, except property, the purchase of which would not be 60293
subject to the tax imposed by section 5739.02 of the Revised Code 60294
or property that is or is to be incorporated into and will become 60295
a part of a production, transmission, transportation, or 60296
distribution system for the delivery of a public utility service; 60297

(c) The service of washing, cleaning, waxing, polishing, or 60298
painting a motor vehicle is or is to be furnished; 60299

(d) Until August 1, 2003, industrial laundry cleaning 60300
services are or are to be provided and, on and after August 1, 60301
2003, laundry and dry cleaning services are or are to be provided; 60302

(e) Automatic data processing, computer services, or 60303
electronic information services are or are to be provided for use 60304
in business when the true object of the transaction is the receipt 60305
by the consumer of automatic data processing, computer services, 60306

or electronic information services rather than the receipt of 60307
personal or professional services to which automatic data 60308
processing, computer services, or electronic information services 60309
are incidental or supplemental. Notwithstanding any other 60310
provision of this chapter, such transactions that occur between 60311
members of an affiliated group are not sales. An affiliated group 60312
means two or more persons related in such a way that one person 60313
owns or controls the business operation of another member of the 60314
group. In the case of corporations with stock, one corporation 60315
owns or controls another if it owns more than fifty per cent of 60316
the other corporation's common stock with voting rights. 60317

(f) Telecommunications service, other than mobile 60318
telecommunications service after July 31, 2002, is or is to be 60319
provided, but does not include transactions by which local 60320
telecommunications service is obtained from a coin-operated 60321
telephone and paid for by using coin; 60322

(g) Landscaping and lawn care service is or is to be 60323
provided; 60324

(h) Private investigation and security service is or is to be 60325
provided; 60326

(i) Information services or tangible personal property is 60327
provided or ordered by means of a nine hundred telephone call; 60328

(j) Building maintenance and janitorial service is or is to 60329
be provided; 60330

(k) Employment service is or is to be provided; 60331

(l) Employment placement service is or is to be provided; 60332

(m) Exterminating service is or is to be provided; 60333

(n) Physical fitness facility service is or is to be 60334
provided; 60335

(o) Recreation and sports club service is or is to be 60336

provided. 60337

(p) After July 31, 2002, mobile telecommunications service is 60338
or is to be provided when that service is situated to this state 60339
pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L. 60340
No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, 60341
as amended. 60342

(q) On and after August 1, 2003, satellite broadcasting 60343
service is or is to be provided; 60344

(r) On and after August 1, 2003, personal care service is or 60345
is to be provided to an individual. As used in this division, 60346
"personal care service" includes skin care, the application of 60347
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 60348
piercing, tanning, massage, and other similar services. "Personal 60349
care service" does not include a service provided by or on the 60350
order of a licensed physician or licensed chiropractor, or the 60351
cutting, coloring, or styling of an individual's hair. 60352

(s) On and after August 1, 2003, the transportation of 60353
persons by motor vehicle or aircraft is or is to be provided, when 60354
the transportation is entirely within this state, except for 60355
transportation provided by an ambulance service, by a transit bus, 60356
as defined in section 5735.01 of the Revised Code, and 60357
transportation provided by a citizen of the United States holding 60358
a certificate of public convenience and necessity issued under 49 60359
U.S.C. 41102; 60360

(t) On and after August 1, 2003, motor vehicle towing service 60361
is or is to be provided. As used in this division, "motor vehicle 60362
towing service" means the towing or conveyance of a wrecked, 60363
disabled, or illegally parked motor vehicle. 60364

(u) On and after August 1, 2003, snow removal service is or 60365
is to be provided. As used in this division, "snow removal 60366
service" means the removal of snow by any mechanized means, but 60367

does not include the providing of such service by a person that 60368
has less than five thousand dollars in sales of such service 60369
during the calendar year. 60370

(4) All transactions by which printed, imprinted, 60371
overprinted, lithographic, multilithic, blueprinted, photostatic, 60372
or other productions or reproductions of written or graphic matter 60373
are or are to be furnished or transferred; 60374

(5) The production or fabrication of tangible personal 60375
property for a consideration for consumers who furnish either 60376
directly or indirectly the materials used in the production of 60377
fabrication work; and include the furnishing, preparing, or 60378
serving for a consideration of any tangible personal property 60379
consumed on the premises of the person furnishing, preparing, or 60380
serving such tangible personal property. Except as provided in 60381
section 5739.03 of the Revised Code, a construction contract 60382
pursuant to which tangible personal property is or is to be 60383
incorporated into a structure or improvement on and becoming a 60384
part of real property is not a sale of such tangible personal 60385
property. The construction contractor is the consumer of such 60386
tangible personal property, provided that the sale and 60387
installation of carpeting, the sale and installation of 60388
agricultural land tile, the sale and erection or installation of 60389
portable grain bins, or the provision of landscaping and lawn care 60390
service and the transfer of property as part of such service is 60391
never a construction contract. 60392

As used in division (B)(5) of this section: 60393

(a) "Agricultural land tile" means fired clay or concrete 60394
tile, or flexible or rigid perforated plastic pipe or tubing, 60395
incorporated or to be incorporated into a subsurface drainage 60396
system appurtenant to land used or to be used directly in 60397
production by farming, agriculture, horticulture, or floriculture. 60398

The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production. 60399
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(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts. 60403
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(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders; 60407
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(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided; 60412
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(8) ~~;(9)~~ The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale. 60417
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(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business. 60420
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Except ~~Other than~~ as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for 60424
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which no separate charges are made. 60430

(C) "Vendor" means the person providing the service or by 60431
whom the transfer effected or license given by a sale is or is to 60432
be made or given and, for sales described in division (B)(3)(i) of 60433
this section, the telecommunications service vendor that provides 60434
the nine hundred telephone service; if two or more persons are 60435
engaged in business at the same place of business under a single 60436
trade name in which all collections on account of sales by each 60437
are made, such persons shall constitute a single vendor. 60438

Physicians, dentists, hospitals, and veterinarians who are 60439
engaged in selling tangible personal property as received from 60440
others, such as eyeglasses, mouthwashes, dentifrices, or similar 60441
articles, are vendors. Veterinarians who are engaged in 60442
transferring to others for a consideration drugs, the dispensing 60443
of which does not require an order of a licensed veterinarian or 60444
physician under federal law, are vendors. 60445

(D)(1) "Consumer" means the person for whom the service is 60446
provided, to whom the transfer effected or license given by a sale 60447
is or is to be made or given, to whom the service described in 60448
division (B)(3)(f) or (i) of this section is charged, or to whom 60449
the admission is granted. 60450

(2) Physicians, dentists, hospitals, and blood banks operated 60451
by nonprofit institutions and persons licensed to practice 60452
veterinary medicine, surgery, and dentistry are consumers of all 60453
tangible personal property and services purchased by them in 60454
connection with the practice of medicine, dentistry, the rendition 60455
of hospital or blood bank service, or the practice of veterinary 60456
medicine, surgery, and dentistry. In addition to being consumers 60457
of drugs administered by them or by their assistants according to 60458
their direction, veterinarians also are consumers of drugs that 60459
under federal law may be dispensed only by or upon the order of a 60460
licensed veterinarian or physician, when transferred by them to 60461

others for a consideration to provide treatment to animals as 60462
directed by the veterinarian. 60463

(3) A person who performs a facility management, or similar 60464
service contract for a contractee is a consumer of all tangible 60465
personal property and services purchased for use in connection 60466
with the performance of such contract, regardless of whether title 60467
to any such property vests in the contractee. The purchase of such 60468
property and services is not subject to the exception for resale 60469
under division (E)(1) of this section. 60470

(4)(a) In the case of a person who purchases printed matter 60471
for the purpose of distributing it or having it distributed to the 60472
public or to a designated segment of the public, free of charge, 60473
that person is the consumer of that printed matter, and the 60474
purchase of that printed matter for that purpose is a sale. 60475

(b) In the case of a person who produces, rather than 60476
purchases, printed matter for the purpose of distributing it or 60477
having it distributed to the public or to a designated segment of 60478
the public, free of charge, that person is the consumer of all 60479
tangible personal property and services purchased for use or 60480
consumption in the production of that printed matter. That person 60481
is not entitled to claim exemption under division (B)(43)(f) of 60482
section 5739.02 of the Revised Code for any material incorporated 60483
into the printed matter or any equipment, supplies, or services 60484
primarily used to produce the printed matter. 60485

(c) The distribution of printed matter to the public or to a 60486
designated segment of the public, free of charge, is not a sale to 60487
the members of the public to whom the printed matter is 60488
distributed or to any persons who purchase space in the printed 60489
matter for advertising or other purposes. 60490

(5) A person who makes sales of any of the services listed in 60491
division (B)(3) of this section is the consumer of any tangible 60492

personal property used in performing the service. The purchase of 60493
that property is not subject to the resale exception under 60494
division (E)(1) of this section. 60495

(6) A person who engages in highway transportation for hire 60496
is the consumer of all packaging materials purchased by that 60497
person and used in performing the service, except for packaging 60498
materials sold by such person in a transaction separate from the 60499
service. 60500

(E) "Retail sale" and "sales at retail" include all sales, 60501
except those in which the purpose of the consumer is to resell the 60502
thing transferred or benefit of the service provided, by a person 60503
engaging in business, in the form in which the same is, or is to 60504
be, received by the person. 60505

(F) "Business" includes any activity engaged in by any person 60506
with the object of gain, benefit, or advantage, either direct or 60507
indirect. "Business" does not include the activity of a person in 60508
managing and investing the person's own funds. 60509

(G) "Engaging in business" means commencing, conducting, or 60510
continuing in business, and liquidating a business when the 60511
liquidator thereof holds itself out to the public as conducting 60512
such business. Making a casual sale is not engaging in business. 60513

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 60514
(3) of this section, means the total amount of consideration, 60515
including cash, credit, property, and services, for which tangible 60516
personal property or services are sold, leased, or rented, valued 60517
in money, whether received in money or otherwise, without any 60518
deduction for any of the following: 60519

(i) The vendor's cost of the property sold; 60520

(ii) The cost of materials used, labor or service costs, 60521
interest, losses, all costs of transportation to the vendor, all 60522

taxes imposed on the vendor, <u>including the tax imposed under</u>	60523
<u>Chapter 5751. of the Revised Code</u> , and any other expense of the	60524
vendor;	60525
(iii) Charges by the vendor for any services necessary to	60526
complete the sale;	60527
(iv) On and after August 1, 2003, delivery charges. As used	60528
in this division, "delivery charges" means charges by the vendor	60529
for preparation and delivery to a location designated by the	60530
consumer of tangible personal property or a service, including	60531
transportation, shipping, postage, handling, crating, and packing.	60532
(v) Installation charges;	60533
(vi) The value of exempt tangible personal property given to	60534
the consumer where taxable and exempt tangible personal property	60535
have been bundled together and sold by the vendor as a single	60536
product or piece of merchandise.	60537
(b) "Price" does not include any of the following:	60538
(i) Discounts, including cash, term, or coupons that are not	60539
reimbursed by a third party that are allowed by a vendor and taken	60540
by a consumer on a sale;	60541
(ii) Interest, financing, and carrying charges from credit	60542
extended on the sale of tangible personal property or services, if	60543
the amount is separately stated on the invoice, bill of sale, or	60544
similar document given to the purchaser;	60545
(iii) Any taxes legally imposed directly on the consumer that	60546
are separately stated on the invoice, bill of sale, or similar	60547
document given to the consumer. <u>For the purpose of this division,</u>	60548
<u>the tax imposed under Chapter 5751. of the Revised Code is not a</u>	60549
<u>tax directly on the consumer even if the tax or a portion thereof</u>	60550
<u>is separately stated.</u>	60551
(2) In the case of a sale of any new motor vehicle by a new	60552

motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade. 60553
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(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft. 60559
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(4) In the case of a transaction in which telecommunications service, mobile telecommunications service, or cable television service is sold in a bundled transaction with other distinct services for a single price that is not itemized, the entire price is subject to the taxes levied under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code, unless the vendor can reasonably identify the nontaxable portion from its books and records kept in the regular course of business. Upon the request of the consumer, the vendor shall disclose to the consumer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on an aggregated basis. The burden of proving any nontaxable charges is on the vendor. 60569
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(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus 60582
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any amount deducted as a bad debt pursuant to section 5739.121 of
the Revised Code. "Receipts" does not include the sale price of
property returned or services rejected by consumers when the full
sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person
engages in business.

(K) "Premises" includes any real property or portion thereof
upon which any person engages in selling tangible personal
property at retail or making retail sales and also includes any
real property or portion thereof designated for, or devoted to,
use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible
personal property that was obtained by the person making the sale,
through purchase or otherwise, for the person's own use and was
previously subject to any state's taxing jurisdiction on its sale
or use, and includes such items acquired for the seller's use that
are sold by an auctioneer employed directly by the person for such
purpose, provided the location of such sales is not the
auctioneer's permanent place of business. As used in this
division, "permanent place of business" includes any location
where such auctioneer has conducted more than two auctions during
the year.

(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 60616
party is obligated to provide a service or to transfer title to or 60617
possession of the item sold. "Making retail sales" does not 60618
include the preliminary acts of promoting or soliciting the retail 60619
sales, other than the distribution of printed matter which 60620
displays or describes and prices the item offered for sale, nor 60621
does it include delivery of a predetermined quantity of tangible 60622
personal property or transportation of property or personnel to or 60623
from a place where a service is performed, regardless of whether 60624
the vendor is a delivery vendor. 60625

(P) "Used directly in the rendition of a public utility 60626
service" means that property that is to be incorporated into and 60627
will become a part of the consumer's production, transmission, 60628
transportation, or distribution system and that retains its 60629
classification as tangible personal property after such 60630
incorporation; fuel or power used in the production, transmission, 60631
transportation, or distribution system; and tangible personal 60632
property used in the repair and maintenance of the production, 60633
transmission, transportation, or distribution system, including 60634
only such motor vehicles as are specially designed and equipped 60635
for such use. Tangible personal property and services used 60636
primarily in providing highway transportation for hire are not 60637
used directly in the rendition of a public utility service. 60638

(Q) "Refining" means removing or separating a desirable 60639
product from raw or contaminated materials by distillation or 60640
physical, mechanical, or chemical processes. 60641

(R) "Assembly" and "assembling" mean attaching or fitting 60642
together parts to form a product, but do not include packaging a 60643
product. 60644

(S) "Manufacturing operation" means a process in which 60645
materials are changed, converted, or transformed into a different 60646

state or form from which they previously existed and includes 60647
refining materials, assembling parts, and preparing raw materials 60648
and parts by mixing, measuring, blending, or otherwise committing 60649
such materials or parts to the manufacturing process. 60650
"Manufacturing operation" does not include packaging. 60651

(T) "Fiscal officer" means, with respect to a regional 60652
transit authority, the secretary-treasurer thereof, and with 60653
respect to a county that is a transit authority, the fiscal 60654
officer of the county transit board if one is appointed pursuant 60655
to section 306.03 of the Revised Code or the county auditor if the 60656
board of county commissioners operates the county transit system. 60657

(U) "Transit authority" means a regional transit authority 60658
created pursuant to section 306.31 of the Revised Code or a county 60659
in which a county transit system is created pursuant to section 60660
306.01 of the Revised Code. For the purposes of this chapter, a 60661
transit authority must extend to at least the entire area of a 60662
single county. A transit authority that includes territory in more 60663
than one county must include all the area of the most populous 60664
county that is a part of such transit authority. County population 60665
shall be measured by the most recent census taken by the United 60666
States census bureau. 60667

(V) "Legislative authority" means, with respect to a regional 60668
transit authority, the board of trustees thereof, and with respect 60669
to a county that is a transit authority, the board of county 60670
commissioners. 60671

(W) "Territory of the transit authority" means all of the 60672
area included within the territorial boundaries of a transit 60673
authority as they from time to time exist. Such territorial 60674
boundaries must at all times include all the area of a single 60675
county or all the area of the most populous county that is a part 60676
of such transit authority. County population shall be measured by 60677

the most recent census taken by the United States census bureau. 60678

(X) "Providing a service" means providing or furnishing 60679
anything described in division (B)(3) of this section for 60680
consideration. 60681

(Y)(1)(a) "Automatic data processing" means processing of 60682
others' data, including keypunching or similar data entry services 60683
together with verification thereof, or providing access to 60684
computer equipment for the purpose of processing data. 60685

(b) "Computer services" means providing services consisting 60686
of specifying computer hardware configurations and evaluating 60687
technical processing characteristics, computer programming, and 60688
training of computer programmers and operators, provided in 60689
conjunction with and to support the sale, lease, or operation of 60690
taxable computer equipment or systems. 60691

(c) "Electronic information services" means providing access 60692
to computer equipment by means of telecommunications equipment for 60693
the purpose of either of the following: 60694

(i) Examining or acquiring data stored in or accessible to 60695
the computer equipment; 60696

(ii) Placing data into the computer equipment to be retrieved 60697
by designated recipients with access to the computer equipment. 60698

(d) "Automatic data processing, computer services, or 60699
electronic information services" shall not include personal or 60700
professional services. 60701

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 60702
section, "personal and professional services" means all services 60703
other than automatic data processing, computer services, or 60704
electronic information services, including but not limited to: 60705

(a) Accounting and legal services such as advice on tax 60706
matters, asset management, budgetary matters, quality control, 60707

information security, and auditing and any other situation where	60708
the service provider receives data or information and studies,	60709
alters, analyzes, interprets, or adjusts such material;	60710
(b) Analyzing business policies and procedures;	60711
(c) Identifying management information needs;	60712
(d) Feasibility studies, including economic and technical	60713
analysis of existing or potential computer hardware or software	60714
needs and alternatives;	60715
(e) Designing policies, procedures, and custom software for	60716
collecting business information, and determining how data should	60717
be summarized, sequenced, formatted, processed, controlled, and	60718
reported so that it will be meaningful to management;	60719
(f) Developing policies and procedures that document how	60720
business events and transactions are to be authorized, executed,	60721
and controlled;	60722
(g) Testing of business procedures;	60723
(h) Training personnel in business procedure applications;	60724
(i) Providing credit information to users of such information	60725
by a consumer reporting agency, as defined in the "Fair Credit	60726
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	60727
as hereafter amended, including but not limited to gathering,	60728
organizing, analyzing, recording, and furnishing such information	60729
by any oral, written, graphic, or electronic medium;	60730
(j) Providing debt collection services by any oral, written,	60731
graphic, or electronic means.	60732
The services listed in divisions (Y)(2)(a) to (j) of this	60733
section are not automatic data processing or computer services.	60734
(Z) "Highway transportation for hire" means the	60735
transportation of personal property belonging to others for	60736

consideration by any of the following: 60737

(1) The holder of a permit or certificate issued by this 60738
state or the United States authorizing the holder to engage in 60739
transportation of personal property belonging to others for 60740
consideration over or on highways, roadways, streets, or any 60741
similar public thoroughfare; 60742

(2) A person who engages in the transportation of personal 60743
property belonging to others for consideration over or on 60744
highways, roadways, streets, or any similar public thoroughfare 60745
but who could not have engaged in such transportation on December 60746
11, 1985, unless the person was the holder of a permit or 60747
certificate of the types described in division (Z)(1) of this 60748
section; 60749

(3) A person who leases a motor vehicle to and operates it 60750
for a person described by division (Z)(1) or (2) of this section. 60751

(AA) "Telecommunications service" means the transmission of 60752
any interactive, two-way electromagnetic communications, including 60753
voice, image, data, and information, through the use of any medium 60754
such as wires, cables, microwaves, cellular radio, radio waves, 60755
light waves, or any combination of those or similar media. 60756
"Telecommunications service" includes message toll service even 60757
though the vendor provides the message toll service by means of 60758
wide area transmission type service or private communications 60759
service purchased from another telecommunications service 60760
provider, and other related fees and ancillary services, including 60761
universal service fees, detailed billing service, directory 60762
assistance, service initiation, voice mail service, and vertical 60763
services, such as caller ID and three-way calling. 60764
"Telecommunications service" does not include any of the 60765
following: 60766

(1) Sales of telecommunications service billed to persons 60767

before January 1, 2004, by telephone companies subject to the 60768
excise tax imposed by Chapter 5727. of the Revised Code; 60769

(2) Sales of telecommunications service to a provider of 60770
telecommunications service or of mobile telecommunications 60771
service, including access services, for use in providing 60772
telecommunications service or mobile telecommunications service; 60773

(3) Value-added nonvoice services in which computer 60774
processing applications are used to act on the form, content, 60775
code, or protocol of the information to be transmitted; 60776

(4) Transmission of interactive video programming by a cable 60777
television system as defined in section 505.90 of the Revised 60778
Code; 60779

(5) After July 31, 2002, mobile telecommunications service. 60780

(BB) "Laundry and dry cleaning services" means removing soil 60781
or dirt from towels, linens, articles of clothing, or other fabric 60782
items that belong to others and supplying towels, linens, articles 60783
of clothing, or other fabric items. "Laundry and dry cleaning 60784
services" does not include the provision of self-service 60785
facilities for use by consumers to remove soil or dirt from 60786
towels, linens, articles of clothing, or other fabric items. 60787

(CC) "Magazines distributed as controlled circulation 60788
publications" means magazines containing at least twenty-four 60789
pages, at least twenty-five per cent editorial content, issued at 60790
regular intervals four or more times a year, and circulated 60791
without charge to the recipient, provided that such magazines are 60792
not owned or controlled by individuals or business concerns which 60793
conduct such publications as an auxiliary to, and essentially for 60794
the advancement of the main business or calling of, those who own 60795
or control them. 60796

(DD) "Landscaping and lawn care service" means the services 60797

of planting, seeding, sodding, removing, cutting, trimming, 60798
pruning, mulching, aerating, applying chemicals, watering, 60799
fertilizing, and providing similar services to establish, promote, 60800
or control the growth of trees, shrubs, flowers, grass, ground 60801
cover, and other flora, or otherwise maintaining a lawn or 60802
landscape grown or maintained by the owner for ornamentation or 60803
other nonagricultural purpose. However, "landscaping and lawn care 60804
service" does not include the providing of such services by a 60805
person who has less than five thousand dollars in sales of such 60806
services during the calendar year. 60807

(EE) "Private investigation and security service" means the 60808
performance of any activity for which the provider of such service 60809
is required to be licensed pursuant to Chapter 4749. of the 60810
Revised Code, or would be required to be so licensed in performing 60811
such services in this state, and also includes the services of 60812
conducting polygraph examinations and of monitoring or overseeing 60813
the activities on or in, or the condition of, the consumer's home, 60814
business, or other facility by means of electronic or similar 60815
monitoring devices. "Private investigation and security service" 60816
does not include special duty services provided by off-duty police 60817
officers, deputy sheriffs, and other peace officers regularly 60818
employed by the state or a political subdivision. 60819

(FF) "Information services" means providing conversation, 60820
giving consultation or advice, playing or making a voice or other 60821
recording, making or keeping a record of the number of callers, 60822
and any other service provided to a consumer by means of a nine 60823
hundred telephone call, except when the nine hundred telephone 60824
call is the means by which the consumer makes a contribution to a 60825
recognized charity. 60826

(GG) "Research and development" means designing, creating, or 60827
formulating new or enhanced products, equipment, or manufacturing 60828
processes, and also means conducting scientific or technological 60829

inquiry and experimentation in the physical sciences with the goal 60830
of increasing scientific knowledge which may reveal the bases for 60831
new or enhanced products, equipment, or manufacturing processes. 60832

(HH) "Qualified research and development equipment" means 60833
capitalized tangible personal property, and leased personal 60834
property that would be capitalized if purchased, used by a person 60835
primarily to perform research and development. Tangible personal 60836
property primarily used in testing, as defined in division (A)(4) 60837
of section 5739.011 of the Revised Code, or used for recording or 60838
storing test results, is not qualified research and development 60839
equipment unless such property is primarily used by the consumer 60840
in testing the product, equipment, or manufacturing process being 60841
created, designed, or formulated by the consumer in the research 60842
and development activity or in recording or storing such test 60843
results. 60844

(II) "Building maintenance and janitorial service" means 60845
cleaning the interior or exterior of a building and any tangible 60846
personal property located therein or thereon, including any 60847
services incidental to such cleaning for which no separate charge 60848
is made. However, "building maintenance and janitorial service" 60849
does not include the providing of such service by a person who has 60850
less than five thousand dollars in sales of such service during 60851
the calendar year. 60852

(JJ) "Employment service" means providing or supplying 60853
personnel, on a temporary or long-term basis, to perform work or 60854
labor under the supervision or control of another, when the 60855
personnel so supplied receive their wages, salary, or other 60856
compensation from the provider of the service. "Employment 60857
service" does not include: 60858

(1) Acting as a contractor or subcontractor, where the 60859
personnel performing the work are not under the direct control of 60860

the purchaser. 60861

(2) Medical and health care services. 60862

(3) Supplying personnel to a purchaser pursuant to a contract 60863
of at least one year between the service provider and the 60864
purchaser that specifies that each employee covered under the 60865
contract is assigned to the purchaser on a permanent basis. 60866

(4) Transactions between members of an affiliated group, as 60867
defined in division (B)(3)(e) of this section. 60868

(KK) "Employment placement service" means locating or finding 60869
employment for a person or finding or locating an employee to fill 60870
an available position. 60871

(LL) "Exterminating service" means eradicating or attempting 60872
to eradicate vermin infestations from a building or structure, or 60873
the area surrounding a building or structure, and includes 60874
activities to inspect, detect, or prevent vermin infestation of a 60875
building or structure. 60876

(MM) "Physical fitness facility service" means all 60877
transactions by which a membership is granted, maintained, or 60878
renewed, including initiation fees, membership dues, renewal fees, 60879
monthly minimum fees, and other similar fees and dues, by a 60880
physical fitness facility such as an athletic club, health spa, or 60881
gymnasium, which entitles the member to use the facility for 60882
physical exercise. 60883

(NN) "Recreation and sports club service" means all 60884
transactions by which a membership is granted, maintained, or 60885
renewed, including initiation fees, membership dues, renewal fees, 60886
monthly minimum fees, and other similar fees and dues, by a 60887
recreation and sports club, which entitles the member to use the 60888
facilities of the organization. "Recreation and sports club" means 60889
an organization that has ownership of, or controls or leases on a 60890

continuing, long-term basis, the facilities used by its members 60891
and includes an aviation club, gun or shooting club, yacht club, 60892
card club, swimming club, tennis club, golf club, country club, 60893
riding club, amateur sports club, or similar organization. 60894

(OO) "Livestock" means farm animals commonly raised for food 60895
or food production, and includes but is not limited to cattle, 60896
sheep, goats, swine, and poultry. "Livestock" does not include 60897
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 60898
animals for use in laboratories or for exhibition, or other 60899
animals not commonly raised for food or food production. 60900

(PP) "Livestock structure" means a building or structure used 60901
exclusively for the housing, raising, feeding, or sheltering of 60902
livestock, and includes feed storage or handling structures and 60903
structures for livestock waste handling. 60904

(QQ) "Horticulture" means the growing, cultivation, and 60905
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 60906
and nursery stock. As used in this division, "nursery stock" has 60907
the same meaning as in section 927.51 of the Revised Code. 60908

(RR) "Horticulture structure" means a building or structure 60909
used exclusively for the commercial growing, raising, or 60910
overwintering of horticultural products, and includes the area 60911
used for stocking, storing, and packing horticultural products 60912
when done in conjunction with the production of those products. 60913

(SS) "Newspaper" means an unbound publication bearing a title 60914
or name that is regularly published, at least as frequently as 60915
biweekly, and distributed from a fixed place of business to the 60916
public in a specific geographic area, and that contains a 60917
substantial amount of news matter of international, national, or 60918
local events of interest to the general public. 60919

(TT) "Professional racing team" means a person that employs 60920
at least twenty full-time employees for the purpose of conducting 60921

a motor vehicle racing business for profit. The person must
conduct the business with the purpose of racing one or more motor
racing vehicles in at least ten competitive professional racing
events each year that comprise all or part of a motor racing
series sanctioned by one or more motor racing sanctioning
organizations. A "motor racing vehicle" means a vehicle for which
the chassis, engine, and parts are designed exclusively for motor
racing, and does not include a stock or production model vehicle
that may be modified for use in racing. For the purposes of this
division:

(1) A "competitive professional racing event" is a motor
vehicle racing event sanctioned by one or more motor racing
sanctioning organizations, at which aggregate cash prizes in
excess of eight hundred thousand dollars are awarded to the
competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the
possession or control of tangible personal property for a fixed or
indefinite term, for consideration. "Lease" or "rental" includes
future options to purchase or extend, and agreements described in
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where
the amount of consideration may be increased or decreased by
reference to the amount realized upon the sale or disposition of
the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal
property under a security agreement or a deferred payment plan
that requires the transfer of title upon completion of the
required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before ~~the effective date of this amendment~~ June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground

receiving or distribution equipment, except the subscriber's 60984
receiving equipment or equipment used in the uplink process to the 60985
satellite, and includes all service and rental charges, premium 60986
channels or other special services, installation and repair 60987
service charges, and any other charges having any connection with 60988
the provision of the satellite broadcasting service. 60989

(YY) "Tangible personal property" means personal property 60990
that can be seen, weighed, measured, felt, or touched, or that is 60991
in any other manner perceptible to the senses. For purposes of 60992
this chapter and Chapter 5741. of the Revised Code, "tangible 60993
personal property" includes motor vehicles, electricity, water, 60994
gas, steam, and prewritten computer software. 60995

(ZZ) "Direct mail" means printed material delivered or 60996
distributed by United States mail or other delivery service to a 60997
mass audience or to addressees on a mailing list provided by the 60998
consumer or at the direction of the consumer when the cost of the 60999
items are not billed directly to the recipients. "Direct mail" 61000
includes tangible personal property supplied directly or 61001
indirectly by the consumer to the direct mail vendor for inclusion 61002
in the package containing the printed material. "Direct mail" does 61003
not include multiple items of printed material delivered to a 61004
single address. 61005

(AAA) "Computer" means an electronic device that accepts 61006
information in digital or similar form and manipulates it for a 61007
result based on a sequence of instructions. 61008

(BBB) "Computer software" means a set of coded instructions 61009
designed to cause a computer or automatic data processing 61010
equipment to perform a task. 61011

(CCC) "Delivered electronically" means delivery of computer 61012
software from the seller to the purchaser by means other than 61013
tangible storage media. 61014

(DDD) "Prewritten computer software" means computer software, 61015
including prewritten upgrades, that is not designed and developed 61016
by the author or other creator to the specifications of a specific 61017
purchaser. The combining of two or more prewritten computer 61018
software programs or prewritten portions thereof does not cause 61019
the combination to be other than prewritten computer software. 61020
"Prewritten computer software" includes software designed and 61021
developed by the author or other creator to the specifications of 61022
a specific purchaser when it is sold to a person other than the 61023
purchaser. If a person modifies or enhances computer software of 61024
which the person is not the author or creator, the person shall be 61025
deemed to be the author or creator only of such person's 61026
modifications or enhancements. Prewritten computer software or a 61027
prewritten portion thereof that is modified or enhanced to any 61028
degree, where such modification or enhancement is designed and 61029
developed to the specifications of a specific purchaser, remains 61030
prewritten computer software; provided, however, that where there 61031
is a reasonable, separately stated charge or an invoice or other 61032
statement of the price given to the purchaser for the modification 61033
or enhancement, the modification or enhancement shall not 61034
constitute prewritten computer software. 61035

(EEE)(1) Prior to July 1, 2004, "food" means cereals and 61036
cereal products, milk and milk products including ice cream, meat 61037
and meat products, fish and fish products, eggs and egg products, 61038
vegetables and vegetable products, fruits, fruit products, and 61039
pure fruit juices, condiments, sugar and sugar products, coffee 61040
and coffee substitutes, tea, and cocoa and cocoa products. "Food" 61041
does not include spirituous liquors, wine, mixed beverages, or 61042
beer; soft drinks; sodas and beverages that are ordinarily 61043
dispensed at or in connection with bars and soda fountains, other 61044
than coffee, tea, and cocoa; root beer and root beer extracts; 61045
malt and malt extracts; mineral oils, cod liver oils, and halibut 61046

liver oil; medicines, including tonics, vitamin preparations, and 61047
other products sold primarily for their medicinal properties; and 61048
water, including mineral, bottled, and carbonated waters, and ice. 61049

(2) On and after July 1, 2004, "food" means substances, 61050
whether in liquid, concentrated, solid, frozen, dried, or 61051
dehydrated form, that are sold for ingestion or chewing by humans 61052
and are consumed for their taste or nutritional value. "Food" does 61053
not include alcoholic beverages, dietary supplements, soft drinks, 61054
or tobacco. 61055

(3) As used in division (EEE)(2) of this section: 61056

(a) "Alcoholic beverages" means beverages that are suitable 61057
for human consumption and contain one-half of one per cent or more 61058
of alcohol by volume. 61059

(b) "Dietary supplements" means any product, other than 61060
tobacco, that is intended to supplement the diet and that is 61061
intended for ingestion in tablet, capsule, powder, softgel, 61062
gelcap, or liquid form, or, if not intended for ingestion in such 61063
a form, is not represented as conventional food for use as a sole 61064
item of a meal or of the diet; that is required to be labeled as a 61065
dietary supplement, identifiable by the "supplement facts" box 61066
found on the label, as required by 21 C.F.R. 101.36; and that 61067
contains one or more of the following dietary ingredients: 61068

(i) A vitamin; 61069

(ii) A mineral; 61070

(iii) An herb or other botanical; 61071

(iv) An amino acid; 61072

(v) A dietary substance for use by humans to supplement the 61073
diet by increasing the total dietary intake; 61074

(vi) A concentrate, metabolite, constituent, extract, or 61075
combination of any ingredient described in divisions 61076

(EEE)(3)(b)(i) to (v) of this section. 61077

(c) "Soft drinks" means nonalcoholic beverages that contain 61078
natural or artificial sweeteners. "Soft drinks" does not include 61079
beverages that contain milk or milk products, soy, rice, or 61080
similar milk substitutes, or that contains greater than fifty per 61081
cent vegetable or fruit juice by volume. 61082

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 61083
tobacco, or any other item that contains tobacco. 61084

(FFF) "Drug" means a compound, substance, or preparation, and 61085
any component of a compound, substance, or preparation, other than 61086
food, dietary supplements, or alcoholic beverages that is 61087
recognized in the official United States pharmacopoeia, official 61088
homeopathic pharmacopoeia of the United States, or official 61089
national formulary, and supplements to them; is intended for use 61090
in the diagnosis, cure, mitigation, treatment, or prevention of 61091
disease; or is intended to affect the structure or any function of 61092
the body. 61093

(GGG) "Prescription" means an order, formula, or recipe 61094
issued in any form of oral, written, electronic, or other means of 61095
transmission by a duly licensed practitioner authorized by the 61096
laws of this state to issue a prescription. 61097

(HHH) "Durable medical equipment" means equipment, including 61098
repair and replacement parts for such equipment, that can 61099
withstand repeated use, is primarily and customarily used to serve 61100
a medical purpose, generally is not useful to a person in the 61101
absence of illness or injury, and is not worn in or on the body. 61102

(III) "Mobility enhancing equipment" means equipment, 61103
including repair and replacement parts for such equipment, that is 61104
primarily and customarily used to provide or increase the ability 61105
to move from one place to another and is appropriate for use 61106
either in a home or a motor vehicle, that is not generally used by 61107

persons with normal mobility, and that does not include any motor
vehicle or equipment on a motor vehicle normally provided by a
motor vehicle manufacturer.

(JJJ) "Prosthetic device" means a replacement, corrective, or
supportive device, including repair and replacement parts for the
device, worn on or in the human body to artificially replace a
missing portion of the body, prevent or correct physical deformity
or malfunction, or support a weak or deformed portion of the body.
As used in this division, "prosthetic device" does not include
corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a
program in which persons within an affiliated group sell and
manage fractional ownership program aircraft, provided that at
least one hundred airworthy aircraft are operated in the program
and the program meets all of the following criteria:

(a) Management services are provided by at least one program
manager within an affiliated group on behalf of the fractional
owners.

(b) Each program aircraft is owned or possessed by at least
one fractional owner.

(c) Each fractional owner owns or possesses at least a
one-sixteenth interest in at least one fixed-wing program
aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect
among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the
fractional ownership, management services, and dry-lease aircraft
interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division

(B)(3)(e) of this section. 61138

(b) "Fractional owner" means a person that owns or possesses 61139
at least a one-sixteenth interest in a program aircraft and has 61140
entered into the agreements described in division (KKK)(1)(e) of 61141
this section. 61142

(c) "Fractional ownership program aircraft" or "program 61143
aircraft" means a turbojet aircraft that is owned or possessed by 61144
a fractional owner and that has been included in a dry-lease 61145
aircraft interchange arrangement and agreement under divisions 61146
(KKK)(1)(d) and (e) of this section, or an aircraft a program 61147
manager owns or possesses primarily for use in a fractional 61148
aircraft ownership program. 61149

(d) "Management services" means administrative and aviation 61150
support services furnished under a fractional aircraft ownership 61151
program in accordance with a management services agreement under 61152
division (KKK)(1)(e) of this section, and offered by the program 61153
manager to the fractional owners, including, at a minimum, the 61154
establishment and implementation of safety guidelines; the 61155
coordination of the scheduling of the program aircraft and crews; 61156
program aircraft maintenance; program aircraft insurance; crew 61157
training for crews employed, furnished, or contracted by the 61158
program manager or the fractional owner; the satisfaction of 61159
record-keeping requirements; and the development and use of an 61160
operations manual and a maintenance manual for the fractional 61161
aircraft ownership program. 61162

(e) "Program manager" means the person that offers management 61163
services to fractional owners pursuant to a management services 61164
agreement under division (KKK)(1)(e) of this section. 61165

Sec. 5739.02. For the purpose of providing revenue with which 61166
to meet the needs of the state, for the use of the general revenue 61167

fund of the state, for the purpose of securing a thorough and 61168
efficient system of common schools throughout the state, for the 61169
purpose of affording revenues, in addition to those from general 61170
property taxes, permitted under constitutional limitations, and 61171
from other sources, for the support of local governmental 61172
functions, and for the purpose of reimbursing the state for the 61173
expense of administering this chapter, an excise tax is hereby 61174
levied on each retail sale made in this state. 61175

(A)(1) The tax shall be collected as provided in section 61176
5739.025 of the Revised Code, provided that on and after July 1, 61177
2003, and on or before June 30, 2005, the rate of tax shall be six 61178
per cent. On and after July 1, 2005, the rate of the tax shall be 61179
five and one-half per cent. The tax applies and is collectible 61180
when the sale is made, regardless of the time when the price is 61181
paid or delivered. 61182

(2) In the case of the lease or rental, with a fixed term of 61183
more than thirty days or an indefinite term with a minimum period 61184
of more than thirty days, of any motor vehicles designed by the 61185
manufacturer to carry a load of not more than one ton, watercraft, 61186
outboard motor, or aircraft, or of any tangible personal property, 61187
other than motor vehicles designed by the manufacturer to carry a 61188
load of more than one ton, to be used by the lessee or renter 61189
primarily for business purposes, the tax shall be collected by the 61190
vendor at the time the lease or rental is consummated and shall be 61191
calculated by the vendor on the basis of the total amount to be 61192
paid by the lessee or renter under the lease agreement. If the 61193
total amount of the consideration for the lease or rental includes 61194
amounts that are not calculated at the time the lease or rental is 61195
executed, the tax shall be calculated and collected by the vendor 61196
at the time such amounts are billed to the lessee or renter. In 61197
the case of an open-end lease or rental, the tax shall be 61198
calculated by the vendor on the basis of the total amount to be 61199

paid during the initial fixed term of the lease or rental, and for 61200
each subsequent renewal period as it comes due. As used in this 61201
division, "motor vehicle" has the same meaning as in section 61202
4501.01 of the Revised Code, and "watercraft" includes an outdrive 61203
unit attached to the watercraft. 61204

A lease with a renewal clause and a termination penalty or 61205
similar provision that applies if the renewal clause is not 61206
exercised is presumed to be a sham transaction. In such a case, 61207
the tax shall be calculated and paid on the basis of the entire 61208
length of the lease period, including any renewal periods, until 61209
the termination penalty or similar provision no longer applies. 61210
The taxpayer shall bear the burden, by a preponderance of the 61211
evidence, that the transaction or series of transactions is not a 61212
sham transaction. 61213

(3) Except as provided in division (A)(2) of this section, in 61214
the case of a sale, the price of which consists in whole or in 61215
part of the lease or rental of tangible personal property, the tax 61216
shall be measured by the installments of that lease or rental. 61217

(4) In the case of a sale of a physical fitness facility 61218
service or recreation and sports club service, the price of which 61219
consists in whole or in part of a membership for the receipt of 61220
the benefit of the service, the tax applicable to the sale shall 61221
be measured by the installments thereof. 61222

(B) The tax does not apply to the following: 61223

(1) Sales to the state or any of its political subdivisions, 61224
or to any other state or its political subdivisions if the laws of 61225
that state exempt from taxation sales made to this state and its 61226
political subdivisions; 61227

(2) Sales of food for human consumption off the premises 61228
where sold; 61229

(3) Sales of food sold to students only in a cafeteria,	61230
dormitory, fraternity, or sorority maintained in a private,	61231
public, or parochial school, college, or university;	61232
(4) Sales of newspapers and of magazine subscriptions and	61233
sales or transfers of magazines distributed as controlled	61234
circulation publications;	61235
(5) The furnishing, preparing, or serving of meals without	61236
charge by an employer to an employee provided the employer records	61237
the meals as part compensation for services performed or work	61238
done;	61239
(6) Sales of motor fuel upon receipt, use, distribution, or	61240
sale of which in this state a tax is imposed by the law of this	61241
state, but this exemption shall not apply to the sale of motor	61242
fuel on which a refund of the tax is allowable under division (A)	61243
of section 5735.14 of the Revised Code; and the tax commissioner	61244
may deduct the amount of tax levied by this section applicable to	61245
the price of motor fuel when granting a refund of motor fuel tax	61246
pursuant to division (A) of section 5735.14 of the Revised Code	61247
and shall cause the amount deducted to be paid into the general	61248
revenue fund of this state;	61249
(7) Sales of natural gas by a natural gas company, of water	61250
by a water-works company, or of steam by a heating company, if in	61251
each case the thing sold is delivered to consumers through pipes	61252
or conduits, and all sales of communications services by a	61253
telegraph company, all terms as defined in section 5727.01 of the	61254
Revised Code, and sales of electricity delivered through wires;	61255
(8) Casual sales by a person, or auctioneer employed directly	61256
by the person to conduct such sales, except as to such sales of	61257
motor vehicles, watercraft or outboard motors required to be	61258
titled under section 1548.06 of the Revised Code, watercraft	61259
documented with the United States coast guard, snowmobiles, and	61260

all-purpose vehicles as defined in section 4519.01 of the Revised Code; 61261
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(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station. 61263
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(10) Sales not within the taxing power of this state under the Constitution of the United States; 61288
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(11) Except for transactions that are sales under division (B)(3)(s) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation 61290
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is by a private investigation and security service; 61293

(12) Sales of tangible personal property or services to 61294
churches, to organizations exempt from taxation under section 61295
501(c)(3) of the Internal Revenue Code of 1986, and to any other 61296
nonprofit organizations operated exclusively for charitable 61297
purposes in this state, no part of the net income of which inures 61298
to the benefit of any private shareholder or individual, and no 61299
substantial part of the activities of which consists of carrying 61300
on propaganda or otherwise attempting to influence legislation; 61301
sales to offices administering one or more homes for the aged or 61302
one or more hospital facilities exempt under section 140.08 of the 61303
Revised Code; and sales to organizations described in division (D) 61304
of section 5709.12 of the Revised Code. 61305

"Charitable purposes" means the relief of poverty; the 61306
improvement of health through the alleviation of illness, disease, 61307
or injury; the operation of an organization exclusively for the 61308
provision of professional, laundry, printing, and purchasing 61309
services to hospitals or charitable institutions; the operation of 61310
a home for the aged, as defined in section 5701.13 of the Revised 61311
Code; the operation of a radio or television broadcasting station 61312
that is licensed by the federal communications commission as a 61313
noncommercial educational radio or television station; the 61314
operation of a nonprofit animal adoption service or a county 61315
humane society; the promotion of education by an institution of 61316
learning that maintains a faculty of qualified instructors, 61317
teaches regular continuous courses of study, and confers a 61318
recognized diploma upon completion of a specific curriculum; the 61319
operation of a parent-teacher association, booster group, or 61320
similar organization primarily engaged in the promotion and 61321
support of the curricular or extracurricular activities of a 61322
primary or secondary school; the operation of a community or area 61323
center in which presentations in music, dramatics, the arts, and 61324

related fields are made in order to foster public interest and 61325
education therein; the production of performances in music, 61326
dramatics, and the arts; or the promotion of education by an 61327
organization engaged in carrying on research in, or the 61328
dissemination of, scientific and technological knowledge and 61329
information primarily for the public. 61330

Nothing in this division shall be deemed to exempt sales to 61331
any organization for use in the operation or carrying on of a 61332
trade or business, or sales to a home for the aged for use in the 61333
operation of independent living facilities as defined in division 61334
(A) of section 5709.12 of the Revised Code. 61335

(13) Building and construction materials and services sold to 61336
construction contractors for incorporation into a structure or 61337
improvement to real property under a construction contract with 61338
this state or a political subdivision of this state, or with the 61339
United States government or any of its agencies; building and 61340
construction materials and services sold to construction 61341
contractors for incorporation into a structure or improvement to 61342
real property that are accepted for ownership by this state or any 61343
of its political subdivisions, or by the United States government 61344
or any of its agencies at the time of completion of the structures 61345
or improvements; building and construction materials sold to 61346
construction contractors for incorporation into a horticulture 61347
structure or livestock structure for a person engaged in the 61348
business of horticulture or producing livestock; building 61349
materials and services sold to a construction contractor for 61350
incorporation into a house of public worship or religious 61351
education, or a building used exclusively for charitable purposes 61352
under a construction contract with an organization whose purpose 61353
is as described in division (B)(12) of this section; building 61354
materials and services sold to a construction contractor for 61355
incorporation into a building under a construction contract with 61356

an organization exempt from taxation under section 501(c)(3) of
the Internal Revenue Code of 1986 when the building is to be used
exclusively for the organization's exempt purposes; building and
construction materials sold for incorporation into the original
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 primarily engaged in any of the
activities mentioned in division (B)(43)(a) or (g) of this
section, 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, but does not include motor
vehicles or bulk tanks, trailers, or similar devices attached to
motor vehicles. "Packaging" means placing in a package. Division

(B)~~(14)~~(15) of this section does not apply to persons engaged in highway transportation for hire. 61389
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(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division, "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. 61391
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(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; 61396
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(18) Sales of drugs for a human being, dispensed 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 medical 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; 61410
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(19) Sales of prosthetic devices, durable medical equipment 61421
for home use, or mobility enhancing equipment, when made pursuant 61422
to a prescription and when such devices or equipment are for use 61423
by a human being. 61424

(20) Sales of emergency and fire protection vehicles and 61425
equipment to nonprofit organizations for use solely in providing 61426
fire protection and emergency services, including trauma care and 61427
emergency medical services, for political subdivisions of the 61428
state; 61429

(21) Sales of tangible personal property manufactured in this 61430
state, if sold by the manufacturer in this state to a retailer for 61431
use in the retail business of the retailer outside of this state 61432
and if possession is taken from the manufacturer by the purchaser 61433
within this state for the sole purpose of immediately removing the 61434
same from this state in a vehicle owned by the purchaser; 61435

(22) Sales of services provided by the state or any of its 61436
political subdivisions, agencies, instrumentalities, institutions, 61437
or authorities, or by governmental entities of the state or any of 61438
its political subdivisions, agencies, instrumentalities, 61439
institutions, or authorities; 61440

(23) Sales of motor vehicles to nonresidents of this state 61441
upon the presentation of an affidavit executed in this state by 61442
the nonresident purchaser affirming that the purchaser is a 61443
nonresident of this state, that possession of the motor vehicle is 61444
taken in this state for the sole purpose of immediately removing 61445
it from this state, that the motor vehicle will be permanently 61446
titled and registered in another state, and that the motor vehicle 61447
will not be used in this state; 61448

(24) Sales to persons engaged in the preparation of eggs for 61449
sale of tangible personal property used or consumed directly in 61450
such preparation, including such tangible personal property used 61451

for cleaning, sanitizing, preserving, grading, sorting, and 61452
classifying by size; packages, including material and parts for 61453
packages, and machinery, equipment, and material for use in 61454
packaging eggs for sale; and handling and transportation equipment 61455
and parts therefor, except motor vehicles licensed to operate on 61456
public highways, used in intraplant or interplant transfers or 61457
shipment of eggs in the process of preparation for sale, when the 61458
plant or plants within or between which such transfers or 61459
shipments occur are operated by the same person. "Packages" 61460
includes containers, cases, baskets, flats, fillers, filler flats, 61461
cartons, closure materials, labels, and labeling materials, and 61462
"packaging" means placing therein. 61463

(25)(a) Sales of water to a consumer for residential use, 61464
except the sale of bottled water, distilled water, mineral water, 61465
carbonated water, or ice; 61466

(b) Sales of water by a nonprofit corporation engaged 61467
exclusively in the treatment, distribution, and sale of water to 61468
consumers, if such water is delivered to consumers through pipes 61469
or tubing. 61470

(26) Fees charged for inspection or reinspection of motor 61471
vehicles under section 3704.14 of the Revised Code; 61472

(27) Sales to persons licensed to conduct a food service 61473
operation pursuant to section 3717.43 of the Revised Code, of 61474
tangible personal property primarily used directly for the 61475
following: 61476

(a) To prepare food for human consumption for sale; 61477

(b) To preserve food that has been or will be prepared for 61478
human consumption for sale by the food service operator, not 61479
including tangible personal property used to display food for 61480
selection by the consumer; 61481

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	61482 61483
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	61484 61485
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	61486 61487 61488 61489
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	61490 61491 61492
(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;	61493 61494 61495
(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 belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	61496 61497 61498 61499 61500 61501
(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;	61502 61503 61504 61505 61506
(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	61507 61508 61509 61510 61511

communications, including voice, image, data, and information, 61512
through the use of any medium, including, but not limited to, 61513
poles, wires, cables, switching equipment, computers, and record 61514
storage devices and media, and component parts for the tangible 61515
personal property. The exemption provided in this division shall 61516
be in lieu of all other exemptions under division (B)(43)(a) of 61517
this section to which the vendor may otherwise be entitled, based 61518
upon the use of the thing purchased in providing the 61519
telecommunications, mobile telecommunications, or satellite 61520
broadcasting service. 61521

(35) Sales of investment metal bullion and investment coins. 61522
"Investment metal bullion" means any elementary precious metal 61523
that has been put through a process of smelting or refining, 61524
including, but not limited to, gold, silver, platinum, and 61525
palladium, and which is in such state or condition that its value 61526
depends upon its content and not upon its form. "Investment metal 61527
bullion" does not include fabricated precious metal that has been 61528
processed or manufactured for one or more specific and customary 61529
industrial, professional, or artistic uses. "Investment coins" 61530
means numismatic coins or other forms of money and legal tender 61531
manufactured of gold, silver, platinum, palladium, or other metal 61532
under the laws of the United States or any foreign nation with a 61533
fair market value greater than any statutory or nominal value of 61534
such coins. 61535

(36)(a) Sales where the purpose of the consumer is to use or 61536
consume the things transferred in making retail sales and 61537
consisting of newspaper inserts, catalogues, coupons, flyers, gift 61538
certificates, or other advertising material that prices and 61539
describes tangible personal property offered for retail sale. 61540

(b) Sales to direct marketing vendors of preliminary 61541
materials such as photographs, artwork, and typesetting that will 61542
be used in printing advertising material; of printed matter that 61543

offers free merchandise or chances to win sweepstake prizes and 61544
that is mailed to potential customers with advertising material 61545
described in division (B)(36)(a) of this section; and of equipment 61546
such as telephones, computers, facsimile machines, and similar 61547
tangible personal property primarily used to accept orders for 61548
direct marketing retail sales. 61549

(c) Sales of automatic food vending machines that preserve 61550
food with a shelf life of forty-five days or less by refrigeration 61551
and dispense it to the consumer. 61552

For purposes of division (B)(36) of this section, "direct 61553
marketing" means the method of selling where consumers order 61554
tangible personal property by United States mail, delivery 61555
service, or telecommunication and the vendor delivers or ships the 61556
tangible personal property sold to the consumer from a warehouse, 61557
catalogue distribution center, or similar fulfillment facility by 61558
means of the United States mail, delivery service, or common 61559
carrier. 61560

(37) Sales to a person engaged in the business of 61561
horticulture or producing livestock of materials to be 61562
incorporated into a horticulture structure or livestock structure; 61563

(38) Sales of personal computers, computer monitors, computer 61564
keyboards, modems, and other peripheral computer equipment to an 61565
individual who is licensed or certified to teach in an elementary 61566
or a secondary school in this state for use by that individual in 61567
preparation for teaching elementary or secondary school students; 61568

(39) Sales to a professional racing team of any of the 61569
following: 61570

(a) Motor racing vehicles; 61571

(b) Repair services for motor racing vehicles; 61572

(c) Items of property that are attached to or incorporated in 61573

motor racing vehicles, including engines, chassis, and all other 61574
components of the vehicles, and all spare, replacement, and 61575
rebuilt parts or components of the vehicles; except not including 61576
tires, consumable fluids, paint, and accessories consisting of 61577
instrumentation sensors and related items added to the vehicle to 61578
collect and transmit data by means of telemetry and other forms of 61579
communication. 61580

(40) Sales of used manufactured homes and used mobile homes, 61581
as defined in section 5739.0210 of the Revised Code, made on or 61582
after January 1, 2000; 61583

(41) Sales of tangible personal property and services to a 61584
provider of electricity used or consumed directly and primarily in 61585
generating, transmitting, or distributing electricity for use by 61586
others, including property that is or is to be incorporated into 61587
and will become a part of the consumer's production, transmission, 61588
or distribution system and that retains its classification as 61589
tangible personal property after incorporation; fuel or power used 61590
in the production, transmission, or distribution of electricity; 61591
and tangible personal property and services used in the repair and 61592
maintenance of the production, transmission, or distribution 61593
system, including only those motor vehicles as are specially 61594
designed and equipped for such use. The exemption provided in this 61595
division shall be in lieu of all other exemptions in division 61596
(B)(43)(a) of this section to which a provider of electricity may 61597
otherwise be entitled based on the use of the tangible personal 61598
property or service purchased in generating, transmitting, or 61599
distributing electricity. 61600

(42) Sales to a person providing services under division 61601
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 61602
personal property and services used directly and primarily in 61603
providing taxable services under that section. 61604

(43) Sales where the purpose of the purchaser is to do any of the following: 61605
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(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property. 61607
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(b) To hold the thing transferred as security for the performance of an obligation of the vendor; 61627
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(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance; 61629
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(d) To use or consume the thing directly in commercial fishing; 61631
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(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation 61633
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publications;	61636
(f) 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;	61637 61638 61639 61640 61641
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	61642 61643 61644
(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;	61645 61646 61647 61648 61649 61650
(i) To use the thing transferred as qualified research and development equipment;	61651 61652
(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.	61653 61654 61655 61656 61657 61658 61659 61660 61661 61662 61663 61664 61665
(k) To use or consume the thing transferred to fulfill a	61666

contractual obligation incurred by a warrantor pursuant to a 61667
warranty provided as a part of the price of the tangible personal 61668
property sold or by a vendor of a warranty, maintenance or service 61669
contract, or similar agreement the provision of which is defined 61670
as a sale under division (B)(7) of section 5739.01 of the Revised 61671
Code; 61672

(l) To use or consume the thing transferred in the production 61673
of a newspaper for distribution to the public; 61674

(m) To use tangible personal property to perform a service 61675
listed in division (B)(3) of section 5739.01 of the Revised Code, 61676
if the property is or is to be permanently transferred to the 61677
consumer of the service as an integral part of the performance of 61678
the service. 61679

As used in division (B)(43) of this section, "thing" includes 61680
all transactions included in divisions (B)(3)(a), (b), and (e) of 61681
section 5739.01 of the Revised Code. 61682

(44) Sales conducted through a coin operated device that 61683
activates vacuum equipment or equipment that dispenses water, 61684
whether or not in combination with soap or other cleaning agents 61685
or wax, to the consumer for the consumer's use on the premises in 61686
washing, cleaning, or waxing a motor vehicle, provided no other 61687
personal property or personal service is provided as part of the 61688
transaction. 61689

(45) Sales of replacement and modification parts for engines, 61690
airframes, instruments, and interiors in, and paint for, aircraft 61691
used primarily in a fractional aircraft ownership program, and 61692
sales of services for the repair, modification, and maintenance of 61693
such aircraft, and machinery, equipment, and supplies primarily 61694
used to provide those services. 61695

(46) Sales of telecommunications service that is used 61696
directly and primarily to perform the functions of a call center. 61697

As used in this division, "call center" means any physical
location where telephone calls are placed or received in high
volume for the purpose of making sales, marketing, customer
service, technical support, or other specialized business
activity, and that employs at least fifty individuals that engage
in call center activities on a full-time basis, or sufficient
individuals to fill fifty full-time equivalent positions.

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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.

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~~(D)~~(E)(D) The levy of this tax on retail sales of recreation
and sports club service shall not prevent a municipal corporation
from levying any tax on recreation and sports club dues or on any
income generated by recreation and sports club dues.

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(E) 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 under 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 the tax levied by this section or section 5739.021,
5739.023, or 5739.026 of the Revised Code.

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Sec. 5739.025. As used in this section, "local tax" means a
tax imposed pursuant to section 5739.021, 5739.023, 5739.026,
5741.021, 5741.022, or 5741.023 of the Revised Code.

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(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows: 61728
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(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule: 61730
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If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	61734
.16	.16	1¢	61735
.17	.33	2¢	61736
.34	.50	3¢	61737
.51	.66	4¢	61738
.67	.83	5¢	61739
.84	1.00	6¢	61740

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. 61741
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(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule: 61749
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If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	61753
.16	.20	1¢	61754
	<u>.18</u>		
.21	.40	2¢	61755
<u>.19</u>	<u>.36</u>		
.41	.60	3¢	61756
<u>.37</u>	<u>.54</u>		

-.61	-.80	4¢	61757
<u>.55</u>	<u>.72</u>		
-.81	1.00	5¢	61758
<u>.73</u>	<u>.90</u>		
<u>.91</u>	<u>1.09</u>	6¢	61759
<u>1.10</u>	<u>1.27</u>	7¢	61760
<u>1.28</u>	<u>1.46</u>	8¢	61761
<u>1.47</u>	<u>1.64</u>	9¢	61762
<u>1.65</u>	<u>1.82</u>	10¢	61763
<u>1.83</u>	<u>2.00</u>	11¢	61764

If the price exceeds ~~one dollar~~ two dollars, the tax is ~~five~~ eleven cents on each ~~one dollar~~ two dollars. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by not more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus one cent. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus the amount of tax for prices ~~twenty one~~ nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(B) On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

If the price		The amount of	61782
is at least	But not more than	the tax is	61783
\$.01	\$.15	No tax	61784
.16	.16	1¢	61785
.17	.32	2¢	61786

.33	.48	3¢	61787
.49	.64	4¢	61788
.65	.80	5¢	61789
.81	.96	6¢	61790
.97	1.12	7¢	61791
1.13	1.28	8¢	61792
1.29	1.44	9¢	61793
1.45	1.60	10¢	61794
1.61	1.76	11¢	61795
1.77	1.92	12¢	61796
1.93	2.08	13¢	61797
2.09	2.24	14¢	61798
2.25	2.40	15¢	61799
2.41	2.56	16¢	61800
2.57	2.72	17¢	61801
2.73	2.88	18¢	61802
2.89	3.04	19¢	61803
3.05	3.20	20¢	61804
3.21	3.36	21¢	61805
3.37	3.52	22¢	61806
3.53	3.68	23¢	61807
3.69	3.84	24¢	61808
3.85	4.00	25¢	61809

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.

(2) When the combined rate of state and local tax is six and one-half per cent: 61819
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If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	61821 61822 61823
.16	.30	2¢	61824
.31	.46	3¢	61825
.47	.61	4¢	61826
.62	.76	5¢	61827
.77	.92	6¢	61828
.93	1.07	7¢	61829
1.08	1.23	8¢	61830
1.24	1.38	9¢	61831
1.39	1.53	10¢	61832
1.54	1.69	11¢	61833
1.70	1.84	12¢	61834
1.85	2.00	13¢	61835

If the price exceeds two dollars, the tax is thirteen cents 61836
on each two dollars. If the price exceeds two dollars or a 61837
multiple thereof by not more than fifteen cents, the amount of tax 61838
is thirteen cents for each two dollars plus one cent. If the price 61839
exceeds two dollars or a multiple thereof by more than fifteen 61840
cents, the amount of tax is thirteen cents for each two dollars 61841
plus the amount of tax for prices sixteen cents through one dollar 61842
and ninety-nine cents in accordance with the schedule above. 61843

(3) When the combined rate of state and local tax is six and three-fourths per cent: 61844
61845

If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	61846 61847 61848
.16	.29	2¢	61849
.30	.44	3¢	61850

.45	.59	4¢	61851
.60	.74	5¢	61852
.75	.88	6¢	61853
.89	1.03	7¢	61854
1.04	1.18	8¢	61855
1.19	1.33	9¢	61856
1.34	1.48	10¢	61857
1.49	1.62	11¢	61858
1.63	1.77	12¢	61859
1.78	1.92	13¢	61860
1.93	2.07	14¢	61861
2.08	2.22	15¢	61862
2.23	2.37	16¢	61863
2.38	2.51	17¢	61864
2.52	2.66	18¢	61865
2.67	2.81	19¢	61866
2.82	2.96	20¢	61867
2.97	3.11	21¢	61868
3.12	3.25	22¢	61869
3.26	3.40	23¢	61870
3.41	3.55	24¢	61871
3.56	3.70	25¢	61872
3.71	3.85	26¢	61873
3.86	4.00	27¢	61874

If the price exceeds four dollars, the tax is twenty-seven 61875
cents on each four dollars. If the price exceeds four dollars or a 61876
multiple thereof by not more than fourteen cents, the amount of 61877
tax is twenty-seven cents for each four dollars plus one cent. If 61878
the price exceeds four dollars or a multiple thereof by more than 61879
fourteen but by not more than twenty-nine cents, the amount of tax 61880
is twenty-seven cents for each four dollars plus two cents. If the 61881
price exceeds four dollars or a multiple thereof by more than 61882
twenty-nine cents the amount of tax is twenty-seven cents for each 61883

four dollars plus the amount of tax for prices thirty cents 61884
through three dollars and ninety-nine cents in accordance with the 61885
schedule above. 61886

(4) When the combined rate of state and local tax is seven 61887
per cent: 61888

If the price	The amount of	61889
is at least	the tax is	61890
But not more than		
\$.01	No tax	61891
.16	2¢	61892
.29	3¢	61893
.43	4¢	61894
.58	5¢	61895
.72	6¢	61896
.86	7¢	61897

If the price exceeds one dollar, the tax is seven cents on 61898
each one dollar. If the price exceeds one dollar or a multiple 61899
thereof by not more than fifteen cents, the amount of tax is seven 61900
cents for each one dollar plus one cent. If the price exceeds one 61901
dollar or a multiple thereof by more than fifteen cents, the 61902
amount of tax is seven cents for each one dollar plus the amount 61903
of tax for prices sixteen cents through ninety-nine cents in 61904
accordance with the schedule above. 61905

(5) When the combined rate of state and local tax is seven 61906
and one-fourth per cent: 61907

If the price	The amount of	61908
is at least	the tax is	61909
But not more than		
\$.01	No tax	61910
.16	2¢	61911
.28	3¢	61912
.42	4¢	61913
.56	5¢	61914
.69	6¢	61915

.83	.96	7¢	61916
.97	1.10	8¢	61917
1.11	1.24	9¢	61918
1.25	1.37	10¢	61919
1.38	1.51	11¢	61920
1.52	1.65	12¢	61921
1.66	1.79	13¢	61922
1.80	1.93	14¢	61923
1.94	2.06	15¢	61924
2.07	2.20	16¢	61925
2.21	2.34	17¢	61926
2.35	2.48	18¢	61927
2.49	2.62	19¢	61928
2.63	2.75	20¢	61929
2.76	2.89	21¢	61930
2.90	3.03	22¢	61931
3.04	3.17	23¢	61932
3.18	3.31	24¢	61933
3.32	3.44	25¢	61934
3.45	3.58	26¢	61935
3.59	3.72	27¢	61936
3.73	3.86	28¢	61937
3.87	4.00	29¢	61938

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

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twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above. 61949
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(6) When the combined rate of state and local tax is seven and one-half per cent: 61951
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If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	61955
.16	.26	2¢	61956
.27	.40	3¢	61957
.41	.53	4¢	61958
.54	.65	5¢	61959
.66	.80	6¢	61960
.81	.93	7¢	61961
.94	1.06	8¢	61962
1.07	1.20	9¢	61963
1.21	1.33	10¢	61964
1.34	1.46	11¢	61965
1.47	1.60	12¢	61966
1.61	1.73	13¢	61967
1.74	1.86	14¢	61968
1.87	2.00	15¢	61969

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above. 61970
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(7) When the combined rate of state and local tax is seven and three-fourths per cent: 61978
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If the price The amount of 61980

is at least	But not more than	the tax is	61981
\$.01	\$.15	No tax	61982
.16	.25	2¢	61983
.26	.38	3¢	61984
.39	.51	4¢	61985
.52	.64	5¢	61986
.65	.77	6¢	61987
.78	.90	7¢	61988
.91	1.03	8¢	61989
1.04	1.16	9¢	61990
1.17	1.29	10¢	61991
1.30	1.41	11¢	61992
1.42	1.54	12¢	61993
1.55	1.67	13¢	61994
1.68	1.80	14¢	61995
1.81	1.93	15¢	61996
1.94	2.06	16¢	61997
2.07	2.19	17¢	61998
2.20	2.32	18¢	61999
2.33	2.45	19¢	62000
2.46	2.58	20¢	62001
2.59	2.70	21¢	62002
2.71	2.83	22¢	62003
2.84	2.96	23¢	62004
2.97	3.09	24¢	62005
3.10	3.22	25¢	62006
3.23	3.35	26¢	62007
3.36	3.48	27¢	62008
3.49	3.61	28¢	62009
3.62	3.74	29¢	62010
3.75	3.87	30¢	62011
3.88	4.00	31¢	62012
If the price exceeds four dollars, the tax is thirty-one			62013

cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight per cent:

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	
.16	.25	2¢	
.26	.37	3¢	
.38	.50	4¢	
.51	.62	5¢	
.63	.75	6¢	
.76	.87	7¢	
.88	1.00	8¢	

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for

prices twenty-six cents through ninety-nine cents in accordance 62046
with the schedule above. 62047

(9) When the combined rate of state and local tax is eight 62048
and one-fourth per cent: 62049

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	62052
.16	.24	2¢	62053
.25	.36	3¢	62054
.37	.48	4¢	62055
.49	.60	5¢	62056
.61	.72	6¢	62057
.73	.84	7¢	62058
.85	.96	8¢	62059
.97	1.09	9¢	62060
1.10	1.21	10¢	62061
1.22	1.33	11¢	62062
1.34	1.45	12¢	62063
1.46	1.57	13¢	62064
1.58	1.69	14¢	62065
1.70	1.81	15¢	62066
1.82	1.93	16¢	62067
1.94	2.06	17¢	62068
2.07	2.18	18¢	62069
2.19	2.30	19¢	62070
2.31	2.42	20¢	62071
2.43	2.54	21¢	62072
2.55	2.66	22¢	62073
2.67	2.78	23¢	62074
2.79	2.90	24¢	62075
2.91	3.03	25¢	62076
3.04	3.15	26¢	62077

3.16	3.27	27¢	62078
3.28	3.39	28¢	62079
3.40	3.51	29¢	62080
3.52	3.63	30¢	62081
3.64	3.75	31¢	62082
3.76	3.87	32¢	62083
3.88	4.00	33¢	62084

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:

If the price		The amount of	62099
is at least	But not more than	the tax is	62100
\$.01	\$.15	No tax	62101
.16	.23	2¢	62102
.24	.35	3¢	62103
.36	.47	4¢	62104
.48	.58	5¢	62105
.59	.70	6¢	62106
.71	.82	7¢	62107
.83	.94	8¢	62108
.95	1.05	9¢	62109

1.06	1.17	10¢	62110
1.18	1.29	11¢	62111
1.30	1.41	12¢	62112
1.42	1.52	13¢	62113
1.53	1.64	14¢	62114
1.65	1.76	15¢	62115
1.77	1.88	16¢	62116
1.89	2.00	17¢	62117

If the price exceeds two dollars, the tax is seventeen cents 62118
on each two dollars. If the price exceeds two dollars or a 62119
multiple thereof by not more than eleven cents, the amount of tax 62120
is seventeen cents for each two dollars plus one cent. If the 62121
price exceeds two dollars or a multiple thereof by more than 62122
eleven cents but by not more than twenty-three cents, the amount 62123
of tax is seventeen cents for each two dollars plus two cents. If 62124
the price exceeds two dollars or a multiple thereof by more than 62125
twenty-three cents, the amount of tax is seventeen cents for each 62126
two dollars plus the amount of tax for prices twenty-four cents 62127
through one dollar and ninety-nine cents in accordance with the 62128
schedule above. 62129

(11) When the combined rate of state and local tax is eight 62130
and three-fourths per cent: 62131

If the price		The amount of	62132
is at least	But not more than	the tax is	62133
\$.01	\$.15	No tax	62134
.16	.22	2¢	62135
.23	.34	3¢	62136
.35	.45	4¢	62137
.46	.57	5¢	62138
.58	.68	6¢	62139
.69	.80	7¢	62140
.81	.91	8¢	62141

.92	1.02	9¢	62142
1.03	1.14	10¢	62143
1.15	1.25	11¢	62144
1.26	1.37	12¢	62145
1.38	1.48	13¢	62146
1.49	1.60	14¢	62147
1.61	1.71	15¢	62148
1.72	1.82	16¢	62149
1.83	1.94	17¢	62150
1.95	2.05	18¢	62151
2.06	2.17	19¢	62152
2.18	2.28	20¢	62153
2.29	2.40	21¢	62154
2.41	2.51	22¢	62155
2.52	2.62	23¢	62156
2.63	2.74	24¢	62157
2.75	2.85	25¢	62158
2.86	2.97	26¢	62159
2.98	3.08	27¢	62160
3.09	3.20	28¢	62161
3.21	3.31	29¢	62162
3.32	3.42	30¢	62163
3.43	3.54	31¢	62164
3.55	3.65	32¢	62165
3.66	3.77	33¢	62166
3.78	3.88	34¢	62167
3.89	4.00	35¢	62168

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of

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tax is thirty-five cents for each four dollars plus two cents. If 62175
the price exceeds four dollars or a multiple thereof by more than 62176
twenty-two cents, the amount of tax is thirty-five cents for each 62177
four dollars plus the amount of tax for prices twenty-three cents 62178
through three dollars and ninety-nine cents in accordance with the 62179
schedule above. 62180

(12) When the combined rate of state and local tax is nine 62181
per cent: 62182

If the price	The amount of	62183
is at least	the tax is	62184
But not more than		
\$.01	No tax	62185
.16	2¢	62186
.23	3¢	62187
.34	4¢	62188
.45	5¢	62189
.56	6¢	62190
.67	7¢	62191
.78	8¢	62192
.89	9¢	62193

If the price exceeds one dollar, the tax is nine cents on 62194
each one dollar. If the price exceeds one dollar or a multiple 62195
thereof by not more than eleven cents, the amount of tax is nine 62196
cents for each one dollar plus one cent. If the price exceeds one 62197
dollar or a multiple thereof by more than eleven cents but by not 62198
more than twenty-two cents, the amount of tax is nine cents for 62199
each one dollar plus two cents. If the price exceeds one dollar or 62200
a multiple thereof by more than twenty-two cents, the amount of 62201
tax is nine cents for each one dollar plus the amount of tax for 62202
prices twenty-three cents through ninety-nine cents in accordance 62203
with the schedule above. 62204

(C) On and after July 1, 2005, and on and before December 31, 62205
2005, the combined taxes levied by sections 5739.02 and 5741.02 62206

and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 62207
5741.022, and 5741.023 of the Revised Code shall be collected in 62208
accordance with the following schedules: 62209

(1) When the total rate of local tax is one-fourth per cent: 62210

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	62213
.16	.19	1¢	62214
.20	.38	2¢	62215
.39	.57	3¢	62216
.58	.76	4¢	62217
.77	.95	5¢	62218
.96	1.14	6¢	62219
1.15	1.33	7¢	62220
1.34	1.52	8¢	62221
1.53	1.71	9¢	62222
1.72	1.90	10¢	62223
1.91	2.09	11¢	62224
2.10	2.28	12¢	62225
2.29	2.47	13¢	62226
2.48	2.66	14¢	62227
2.67	2.85	15¢	62228
2.86	3.04	16¢	62229
3.05	3.23	17¢	62230
3.24	3.42	18¢	62231
3.43	3.61	19¢	62232
3.62	3.80	20¢	62233
3.81	4.00	21¢	62234

~~If the price exceeds four dollars, the tax is twenty one~~ 62235
~~cents on each four dollars. If the price exceeds four dollars or a~~ 62236
~~multiple thereof by not more than nineteen cents, the amount of~~ 62237
~~tax is twenty one cents for each four dollars plus one cent. If~~ 62238

~~the price exceeds four dollars or a multiple thereof by more than
nineteen cents, the amount of tax is twenty one cents for each
four dollars plus the amount of tax for prices twenty cents
through three dollars and ninety nine cents in accordance with the
schedule above.~~

~~(2) When the combined rate of local tax is one half per cent:~~

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	62247
.16	.18	1¢	62248
.19	.36	2¢	62249
.37	.54	3¢	62250
.55	.72	4¢	62251
.73	.90	5¢	62252
.91	1.09	6¢	62253
1.10	1.27	7¢	62254
1.28	1.46	8¢	62255
1.47	1.64	9¢	62256
1.65	1.82	10¢	62257
1.83	2.00	11¢	62258

~~If the price exceeds two dollars, the tax is eleven cents on
each two dollars. If the price exceeds two dollars or a multiple
thereof by not more than eighteen cents, the amount of tax is
eleven cents for each two dollars plus one cent. If the price
exceeds two dollars or a multiple thereof by more than eighteen
cents, the amount of tax is eleven cents for each two dollars plus
the amount of tax for prices nineteen cents through one dollar and
ninety nine cents in accordance with the schedule above.~~

~~(3) When the combined rate of local tax is three fourths per
cent:~~

If the price	But not	The amount	
is at least	more than	of the tax is	
			62269
			62270

\$.01	\$.15	No tax	62271
.16	.17	1¢	62272
.18	.34	2¢	62273
.35	.52	3¢	62274
.53	.69	4¢	62275
.70	.86	5¢	62276
.87	1.04	6¢	62277
1.05	1.21	7¢	62278
1.22	1.39	8¢	62279
1.40	1.56	9¢	62280
1.57	1.73	10¢	62281
1.74	1.91	11¢	62282
1.92	2.08	12¢	62283
2.09	2.26	13¢	62284
2.27	2.43	14¢	62285
2.44	2.60	15¢	62286
2.61	2.78	16¢	62287
2.79	2.95	17¢	62288
2.96	3.13	18¢	62289
3.14	3.30	19¢	62290
3.31	3.47	20¢	62291
3.48	3.65	21¢	62292
3.66	3.82	22¢	62293
3.83	4.00	23¢	62294

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.

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 62300
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 62303

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half per cent: 62304
62305

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	62306 62307 62308
.16	.17	1¢	62309
.18	.34	2¢	62310
.35	.50	3¢	62311
.51	.67	4¢	62312
.68	.83	5¢	62313
.84	1.00	6¢	62314

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. 62315
62316
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62322

~~(5)~~(3) When the combined rate of local tax is ~~one and one-fourth~~ three-fourths per cent: 62323
62324

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	62325 62326 62327
.16	.16	1¢	62328
.17	.32	2¢	62329
.33	.48	3¢	62330
.49	.64	4¢	62331
.65	.80	5¢	62332
.81	.96	6¢	62333
.97	1.12	7¢	62334
1.13	1.28	8¢	62335

1.29	1.44	9¢	62336
1.45	1.60	10¢	62337
1.61	1.76	11¢	62338
1.77	1.92	12¢	62339
1.93	2.08	13¢	62340
2.09	2.24	14¢	62341
2.25	2.40	15¢	62342
2.41	2.56	16¢	62343
2.57	2.72	17¢	62344
2.73	2.88	18¢	62345
2.89	3.04	19¢	62346
3.05	3.20	20¢	62347
3.21	3.36	21¢	62348
3.37	3.52	22¢	62349
3.53	3.68	23¢	62350
3.69	3.84	24¢	62351
3.85	4.00	25¢	62352

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)~~(4) When the combined rate of local tax is one ~~and~~ ~~one-half~~ per cent:

If the price	But not	The amount	62364
is at least	more than	of the tax is	62365
\$.01	\$.15	No tax	62366
.16	.30	2¢	62367

.31	.46	3¢	62368
.47	.61	4¢	62369
.62	.76	5¢	62370
.77	.92	6¢	62371
.93	1.07	7¢	62372
1.08	1.23	8¢	62373
1.24	1.38	9¢	62374
1.39	1.53	10¢	62375
1.54	1.69	11¢	62376
1.70	1.84	12¢	62377
1.85	2.00	13¢	62378

If the price exceeds two dollars, the tax is thirteen cents 62379
on each two dollars. If the price exceeds two dollars or a 62380
multiple thereof by not more than fifteen cents, the amount of tax 62381
is thirteen cents for each two dollars plus one cent. If the price 62382
exceeds two dollars or a multiple thereof by more than fifteen 62383
cents, the amount of tax is thirteen cents for each two dollars 62384
plus the amount of tax for prices sixteen cents through one dollar 62385
and ninety-nine cents in accordance with the schedule above. 62386

~~(7)(5)~~ When the combined rate of local tax is one and 62387
~~three-fourths~~ one-fourth per cent: 62388

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	62389
.16	.29	2¢	62392
.30	.44	3¢	62393
.45	.59	4¢	62394
.60	.74	5¢	62395
.75	.88	6¢	62396
.89	1.03	7¢	62397
1.04	1.18	8¢	62398
1.19	1.33	9¢	62399

1.34	1.48	10¢	62400
1.49	1.62	11¢	62401
1.63	1.77	12¢	62402
1.78	1.92	13¢	62403
1.93	2.07	14¢	62404
2.08	2.22	15¢	62405
2.23	2.37	16¢	62406
2.38	2.51	17¢	62407
2.52	2.66	18¢	62408
2.67	2.81	19¢	62409
2.82	2.96	20¢	62410
2.97	3.11	21¢	62411
3.12	3.25	22¢	62412
3.26	3.40	23¢	62413
3.41	3.55	24¢	62414
3.56	3.70	25¢	62415
3.71	3.85	26¢	62416
3.86	4.00	27¢	62417

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)~~(6) When the combined rate of local tax is ~~two~~ one and one-half per cent:

If the price	But not	The amount	62432
is at least	more than	of the tax is	62433
\$.01	\$.15	No tax	62434
.16	.28	2¢	62435
.29	.42	3¢	62436
.43	.57	4¢	62437
.58	.71	5¢	62438
.72	.85	6¢	62439
.86	1.00	7¢	62440

If the price exceeds one dollar, the tax is seven cents on 62441
each one dollar. If the price exceeds one dollar or a multiple 62442
thereof by not more than fifteen cents, the amount of tax is seven 62443
cents for each one dollar plus one cent. If the price exceeds one 62444
dollar or a multiple thereof by more than fifteen cents, the 62445
amount of tax is seven cents for each one dollar plus the amount 62446
of tax for prices sixteen cents through ninety-nine cents in 62447
accordance with the schedule above. 62448

~~(9)(7)~~ When the combined rate of local tax is ~~two~~ one and 62449
~~one-fourth~~ three-fourths per cent: 62450

If the price	But not	The amount	62451
is at least	more than	of the tax is	62452
\$.01	\$.15	No tax	62453
.16	.27	2¢	62454
.28	.41	3¢	62455
.42	.55	4¢	62456
.56	.68	5¢	62457
.69	.82	6¢	62458
.83	.96	7¢	62459
.97	1.10	8¢	62460
1.11	1.24	9¢	62461
1.25	1.37	10¢	62462
1.38	1.51	11¢	62463

1.52	1.65	12¢	62464
1.66	1.79	13¢	62465
1.80	1.93	14¢	62466
1.94	2.06	15¢	62467
2.07	2.20	16¢	62468
2.21	2.34	17¢	62469
2.35	2.48	18¢	62470
2.49	2.62	19¢	62471
2.63	2.75	20¢	62472
2.76	2.89	21¢	62473
2.90	3.03	22¢	62474
3.04	3.17	23¢	62475
3.18	3.31	24¢	62476
3.32	3.44	25¢	62477
3.45	3.58	26¢	62478
3.59	3.72	27¢	62479
3.73	3.86	28¢	62480
3.87	4.00	29¢	62481

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)~~(8) When the combined rate of local tax is two ~~and~~ ~~one-half~~ per cent:

If the price	But not	The amount	62496
is at least	more than	of the tax is	62497
\$.01	\$.15	No tax	62498
.16	.26	2¢	62499
.27	.40	3¢	62500
.41	.53	4¢	62501
.54	.65	5¢	62502
.66	.80	6¢	62503
.81	.93	7¢	62504
.94	1.06	8¢	62505
1.07	1.20	9¢	62506
1.21	1.33	10¢	62507
1.34	1.46	11¢	62508
1.47	1.60	12¢	62509
1.61	1.73	13¢	62510
1.74	1.86	14¢	62511
1.87	2.00	15¢	62512

If the price exceeds two dollars, the tax is fifteen cents on 62513
each two dollars. If the price exceeds two dollars or a multiple 62514
thereof by not more than fifteen cents, the amount of tax is 62515
fifteen cents for each two dollars plus one cent. If the price 62516
exceeds two dollars or a multiple thereof by more than fifteen 62517
cents, the amount of tax is fifteen cents for each two dollars 62518
plus the amount of tax for prices sixteen cents through one dollar 62519
and ninety-nine cents in accordance with the schedule above. 62520

~~(11)~~(9) When the combined rate of local tax is two and 62521
~~three-fourths~~ one-fourth per cent: 62522

If the price	But not	The amount	62523
is at least	more than	of the tax is	62524
\$.01	\$.15	No tax	62525
.16	.25	2¢	62526
.26	.38	3¢	62527

.39	.51	4¢	62528
.52	.64	5¢	62529
.65	.77	6¢	62530
.78	.90	7¢	62531
.91	1.03	8¢	62532
1.04	1.16	9¢	62533
1.17	1.29	10¢	62534
1.30	1.41	11¢	62535
1.42	1.54	12¢	62536
1.55	1.67	13¢	62537
1.68	1.80	14¢	62538
1.81	1.93	15¢	62539
1.94	2.06	16¢	62540
2.07	2.19	17¢	62541
2.20	2.32	18¢	62542
2.33	2.45	19¢	62543
2.46	2.58	20¢	62544
2.59	2.70	21¢	62545
2.71	2.83	22¢	62546
2.84	2.96	23¢	62547
2.97	3.09	24¢	62548
3.10	3.22	25¢	62549
3.23	3.35	26¢	62550
3.36	3.48	27¢	62551
3.49	3.61	28¢	62552
3.62	3.74	29¢	62553
3.75	3.87	30¢	62554
3.88	4.00	31¢	62555

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than

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twelve cents but not more than twenty-five cents, the amount of
tax is thirty-one cents for each four dollars plus two cents. If
the price exceeds four dollars or a multiple thereof by more than
twenty-five cents, the amount of tax is thirty-one cents for each
four dollars plus the amount of tax for prices twenty-six cents
through three dollars and ninety-nine cents in accordance with the
schedule above.

~~(12)~~(10) When the combined rate of local tax is ~~three two 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	62570
.16	.25	2¢	62571
.26	.37	3¢	62572
.38	.50	4¢	62573
.51	.62	5¢	62574
.63	.75	6¢	62575
.76	.87	7¢	62576
.88	1.00	8¢	62577

If the price exceeds one dollar, the tax is eight cents on
each one dollar. If the price exceeds one dollar or a multiple
thereof by not more than twelve cents, the amount of tax is eight
cents for each one dollar plus one cent. If the price exceeds one
dollar or a multiple thereof by more than twelve cents but not
more than twenty-five cents, the amount of tax is eight cents for
each one dollar plus two cents. If the price exceeds one dollar or
a multiple thereof by more than twenty-five cents, the amount of
tax is eight cents for each one dollar plus the amount of tax for
prices twenty-six cents through ninety-nine cents in accordance
with the schedule above.

(11) When the combined rate of local tax is two and
three-fourths per cent:

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	62593
<u>.16</u>	<u>.24</u>	<u>2¢</u>	62594
<u>.25</u>	<u>.36</u>	<u>3¢</u>	62595
<u>.37</u>	<u>.48</u>	<u>4¢</u>	62596
<u>.49</u>	<u>.60</u>	<u>5¢</u>	62597
<u>.61</u>	<u>.72</u>	<u>6¢</u>	62598
<u>.73</u>	<u>.84</u>	<u>7¢</u>	62599
<u>.85</u>	<u>.96</u>	<u>8¢</u>	62600
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	62601
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	62602
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	62603
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	62604
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	62605
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	62606
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	62607
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	62608
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	62609
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	62610
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	62611
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	62612
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	62613
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	62614
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	62615
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	62616
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	62617
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	62618
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	62619
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	62620
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	62621
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	62622
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	62623
			62624
			62625

<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	62626
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	62627

If the price exceeds four dollars, the tax is thirty-three 62628
cents on each four dollars. If the price exceeds four dollars or a 62629
multiple thereof by not more than eleven cents, the amount of tax 62630
is thirty-three cents for each four dollars plus one cent. If the 62631
price exceeds four dollars or a multiple thereof by more than 62632
eleven cents but not more than twenty-four cents, the amount of 62633
tax is thirty-three cents for each four dollars plus two cents. If 62634
the price exceeds four dollars or a multiple thereof by more than 62635
twenty-four cents, the amount of tax is thirty-three cents for 62636
each four dollars plus the amount of tax for prices twenty-six 62637
cents through three dollars and ninety-nine cents in accordance 62638
with the schedule above. 62639

(12) When the combined rate of local tax is three per cent: 62640

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	62643
<u>.16</u>	<u>.23</u>	<u>2¢</u>	62644
<u>.24</u>	<u>.35</u>	<u>3¢</u>	62645
<u>.36</u>	<u>.47</u>	<u>4¢</u>	62646
<u>.48</u>	<u>.58</u>	<u>5¢</u>	62647
<u>.59</u>	<u>.70</u>	<u>6¢</u>	62648
<u>.71</u>	<u>.82</u>	<u>7¢</u>	62649
<u>.83</u>	<u>.94</u>	<u>8¢</u>	62650
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	62651
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	62652
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	62653
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	62654
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	62655
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	62656
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	62657

<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	62658
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	62659

If the price exceeds two dollars, the tax is seventeen cents 62660
on each two dollars. If the price exceeds two dollars or a 62661
multiple thereof by not more than eleven cents, the amount of tax 62662
is seventeen cents for each two dollars plus one cent. If the 62663
price exceeds two dollars or a multiple thereof by more than 62664
eleven cents but not more than twenty-three cents, the amount of 62665
tax is seventeen cents for each two dollars plus two cents. If the 62666
price exceeds two dollars or a multiple thereof by more than 62667
twenty-three cents, the amount of tax is seventeen cents for each 62668
two dollars plus the amount of tax for prices twenty-four cents 62669
through one dollar and ninety-nine cents in accordance with the 62670
schedule above. 62671

(D) In lieu of collecting the tax pursuant to the schedules 62672
set forth in divisions (A), (B), and (C) of this section, a vendor 62673
may compute the tax on each sale as follows: 62674

(1) On sales of fifteen cents or less, no tax shall apply. 62675

(2) On sales in excess of fifteen cents, multiply the price 62676
by the aggregate rate of taxes in effect under sections 5739.02 62677
and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 62678
5741.022, and 5741.023 of the Revised Code. The computation shall 62679
be carried out to six decimal places. If the result is a 62680
fractional amount of a cent, the calculated tax shall be increased 62681
to the next highest cent and that amount shall be collected by the 62682
vendor. 62683

(E) On and after January 1, 2006, a vendor shall compute the 62684
tax on each sale by multiplying the price by the aggregate rate of 62685
taxes in effect under sections 5739.02 and 5741.02, and sections 62686
5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of 62687
the Revised Code. The computation shall be carried out to three 62688

decimal places. If the result is a fractional amount of a cent, 62689
the calculated tax shall be rounded to a whole cent using a method 62690
that rounds up to the next cent whenever the third decimal place 62691
is greater than four. A vendor may elect to compute the tax due on 62692
a transaction on an item or an invoice basis. 62693

(F) In auditing a vendor, the tax commissioner shall consider 62694
the method prescribed by this section that was used by the vendor 62695
in determining and collecting the tax due under this chapter on 62696
taxable transactions. If the vendor correctly collects and remits 62697
the tax due under this chapter in accordance with the schedules in 62698
divisions (A), (B), and (C) of this section or in accordance with 62699
the computation prescribed in division (D) or (E) of this section, 62700
the commissioner shall not assess any additional tax on those 62701
transactions. 62702

(G)(1) With respect to a sale of a fractional ownership 62703
program aircraft used primarily in a fractional aircraft ownership 62704
program, including all accessories attached to such aircraft, the 62705
tax shall be calculated pursuant to divisions (A) to (E) of this 62706
section, provided that the tax commissioner shall modify those 62707
calculations so that the maximum tax on each program aircraft is 62708
eight hundred dollars. In the case of a sale of a fractional 62709
interest that is less than one hundred per cent of the program 62710
aircraft, the tax charged on the transaction shall be eight 62711
hundred dollars multiplied by a fraction, the numerator of which 62712
is the percentage of ownership or possession in the aircraft being 62713
purchased in the transaction, and the denominator of which is one 62714
hundred per cent. 62715

(2) Notwithstanding any other provision of law to the 62716
contrary, the tax calculated under division (G)(1) of this section 62717
and paid with respect to the sale of a fractional ownership 62718
program aircraft used primarily in a fractional aircraft ownership 62719
program shall be credited to the general revenue fund. 62720

Sec. 5739.10. (A) In addition to the tax levied by section 62721
5739.02 of the Revised Code and any tax levied pursuant to section 62722
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 62723
the same objectives specified in those sections, there is hereby 62724
levied upon the privilege of engaging in the business of making 62725
retail sales, an excise tax ~~of six per cent on and after July 1,~~ 62726
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 62727
~~per cent on and after July 1, 2005~~ equal to the tax levied by 62728
section 5739.02 of the Revised Code, or, in the case of retail 62729
sales subject to a tax levied pursuant to section 5739.021, 62730
5739.023, or 5739.026 of the Revised Code, a percentage equal to 62731
the aggregate rate of such taxes and the tax levied by section 62732
5739.02 of the Revised Code of the receipts derived from all 62733
retail sales, except those to which the excise tax imposed by 62734
section 5739.02 of the Revised Code is made inapplicable by 62735
division (B) of that section. 62736

(B) For the purpose of this section, no vendor shall be 62737
required to maintain records of sales of food for human 62738
consumption off the premises where sold, and no assessment shall 62739
be made against any vendor for sales of food for human consumption 62740
off the premises where sold, solely because the vendor has no 62741
records of, or has inadequate records of, such sales; provided 62742
that where a vendor does not have adequate records of receipts 62743
from the vendor's sales of food for human consumption on the 62744
premises where sold, the tax commissioner may refuse to accept the 62745
vendor's return and, upon the basis of test checks of the vendor's 62746
business for a representative period, and other information 62747
relating to the sales made by such vendor, determine the 62748
proportion that taxable retail sales bear to all of the vendor's 62749
retail sales. The tax imposed by this section shall be determined 62750
by deducting from the sum representing five and one-half or six 62751
per cent, as applicable under division (A) of this section, or, in 62752

the case of retail sales subject to a tax levied pursuant to 62753
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a 62754
percentage equal to the aggregate rate of such taxes and the tax 62755
levied by section 5739.02 of the Revised Code of the receipts from 62756
such retail sales, the amount of tax paid to the state or to a 62757
clerk of a court of common pleas. The section does not affect any 62758
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 62759
to 5739.31 of the Revised Code, nor the liability of any consumer 62760
to pay any tax imposed by or pursuant to section 5739.02, 62761
5739.021, 5739.023, or 5739.026 of the Revised Code. 62762

Sec. 5741.02. (A)(1) For the use of the general revenue fund 62763
of the state, an excise tax is hereby levied on the storage, use, 62764
or other consumption in this state of tangible personal property 62765
or the benefit realized in this state of any service provided. The 62766
tax shall be collected as provided in section 5739.025 of the 62767
Revised Code, provided that on and after July 1, 2003, and on or 62768
before June 30, 2005, the rate of the tax shall be six per cent. 62769
On and after July 1, 2005, the rate of the tax shall be five and 62770
one-half per cent. 62771

(2) In the case of the lease or rental, with a fixed term of 62772
more than thirty days or an indefinite term with a minimum period 62773
of more than thirty days, of any motor vehicles designed by the 62774
manufacturer to carry a load of not more than one ton, watercraft, 62775
outboard motor, or aircraft, or of any tangible personal property, 62776
other than motor vehicles designed by the manufacturer to carry a 62777
load of more than one ton, to be used by the lessee or renter 62778
primarily for business purposes, the tax shall be collected by the 62779
seller at the time the lease or rental is consummated and shall be 62780
calculated by the seller on the basis of the total amount to be 62781
paid by the lessee or renter under the lease or rental agreement. 62782
If the total amount of the consideration for the lease or rental 62783
includes amounts that are not calculated at the time the lease or 62784

rental is executed, the tax shall be calculated and collected by
the seller at the time such amounts are billed to the lessee or
renter. In the case of an open-end lease or rental, the tax shall
be calculated by the seller on the basis of the total amount to be
paid during the initial fixed term of the lease or rental, and for
each subsequent renewal period as it comes due. As used in this
division, "motor vehicle" has the same meaning as in section
4501.01 of the Revised Code, and "watercraft" includes an outdrive
unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in
the case of a transaction, the price of which consists in whole or
part of the lease or rental of tangible personal property, the tax
shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in
this state tangible personal property or realizing in this state
the benefit of any service provided, shall be liable for the tax,
and such liability shall not be extinguished until the tax has
been paid to this state; provided, that the consumer shall be
relieved from further liability for the tax if the tax has been
paid to a seller in accordance with section 5741.04 of the Revised
Code or prepaid by the seller in accordance with section 5741.06
of the Revised Code.

(C) The tax does not apply to the storage, use, or
consumption in this state of the following described tangible
personal property or services, nor to the storage, use, or
consumption or benefit in this state of tangible personal property
or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is
subject to the excise tax imposed by sections 5739.01 to 5739.31
of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section,

tangible personal property or services, the acquisition of which, 62816
if made in Ohio, would be a sale not subject to the tax imposed by 62817
sections 5739.01 to 5739.31 of the Revised Code; 62818

(3) Property or services, the storage, use, or other 62819
consumption of or benefit from which this state is prohibited from 62820
taxing by the Constitution of the United States, laws of the 62821
United States, or the Constitution of this state. This exemption 62822
shall not exempt from the application of the tax imposed by this 62823
section the storage, use, or consumption of tangible personal 62824
property that was purchased in interstate commerce, but that has 62825
come to rest in this state, provided that fuel to be used or 62826
transported in carrying on interstate commerce that is stopped 62827
within this state pending transfer from one conveyance to another 62828
is exempt from the excise tax imposed by this section and section 62829
5739.02 of the Revised Code; 62830

(4) Transient use of tangible personal property in this state 62831
by a nonresident tourist or vacationer, or a non-business use 62832
within this state by a nonresident of this state, if the property 62833
so used was purchased outside this state for use outside this 62834
state and is not required to be registered or licensed under the 62835
laws of this state; 62836

(5) Tangible personal property or services rendered, upon 62837
which taxes have been paid to another jurisdiction to the extent 62838
of the amount of the tax paid to such other jurisdiction. Where 62839
the amount of the tax imposed by this section and imposed pursuant 62840
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 62841
exceeds the amount paid to another jurisdiction, the difference 62842
shall be allocated between the tax imposed by this section and any 62843
tax imposed by a county or a transit authority pursuant to section 62844
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 62845
to the respective rates of such taxes. 62846

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or

otherwise consumed in a taxable manner. 62878

(E)(1) If any transaction is claimed to be exempt under 62879
division (E) of section 5739.01 of the Revised Code or under 62880
section 5739.02 of the Revised Code, with the exception of 62881
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 62882
Code, the consumer shall provide to the seller, and the seller 62883
shall obtain from the consumer, a certificate specifying the 62884
reason that the transaction is not subject to the tax. The 62885
certificate shall be provided either in a hard copy form or 62886
electronic form, as prescribed by the tax commissioner. If the 62887
transaction is claimed to be exempt under division (B)(13) of 62888
section 5739.02 of the Revised Code, the exemption certificate 62889
shall be provided by both the contractor and contractee. Such 62890
contractee shall be deemed to be the consumer of all items 62891
purchased under the claim of exemption, if it is subsequently 62892
determined that the exemption is not properly claimed. The 62893
certificate shall be in such form as the tax commissioner by rule 62894
prescribes. The seller shall maintain records, including exemption 62895
certificates, of all sales on which a consumer has claimed an 62896
exemption, and provide them to the tax commissioner on request. 62897

(2) If no certificate is provided or obtained within the 62898
period for filing the return for the period in which the 62899
transaction is consummated, it shall be presumed that the tax 62900
applies. The failure to have so provided or obtained a certificate 62901
shall not preclude a seller or consumer from establishing, within 62902
one hundred twenty days of the giving of notice by the 62903
commissioner of intention to levy an assessment, that the 62904
transaction is not subject to the tax. 62905

(F) A seller who files a petition for reassessment contesting 62906
the assessment of tax on transactions for which the seller 62907
obtained no valid exemption certificates, and for which the seller 62908
failed to establish that the transactions were not subject to the 62909

tax during the one-hundred-twenty-day period allowed under 62910
division (E) of this section, may present to the tax commissioner 62911
additional evidence to prove that the transactions were exempt. 62912
The seller shall file such evidence within ninety days of the 62913
receipt by the seller of the notice of assessment, except that, 62914
upon application and for reasonable cause, the tax commissioner 62915
may extend the period for submitting such evidence thirty days. 62916

(G) For the purpose of the proper administration of sections 62917
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 62918
of the tax hereby levied, it shall be presumed that any use, 62919
storage, or other consumption of tangible personal property in 62920
this state is subject to the tax until the contrary is 62921
established. 62922

(H) The tax collected by the seller from the consumer under 62923
this chapter is not part of the price, but is a tax collection for 62924
the benefit of the state, and of counties levying an additional 62925
use tax pursuant to section 5741.021 or 5741.023 of the Revised 62926
Code and of transit authorities levying an additional use tax 62927
pursuant to section 5741.022 of the Revised Code. Except for the 62928
discount authorized under section 5741.12 of the Revised Code and 62929
the effects of any rounding pursuant to section 5703.055 of the 62930
Revised Code, no person other than the state or such a county or 62931
transit authority shall derive any benefit from the collection of 62932
such tax. 62933

Sec. 5743.01. As used in this chapter: 62934

(A) "Person" includes individuals, firms, partnerships, 62935
associations, joint-stock companies, corporations, combinations of 62936
individuals of any form, and the state and any of its political 62937
subdivisions. 62938

(B) "Wholesale dealer" includes only those persons: 62939

(1) Who bring in or cause to be brought into this state 62940
unstamped cigarettes purchased directly from the manufacturer, 62941
producer, or importer of cigarettes for sale in this state but 62942
does not include persons who bring in or cause to be brought into 62943
this state cigarettes with respect to which no evidence of tax 62944
payment is required thereon as provided in section 5743.04 of the 62945
Revised Code; or 62946

(2) Who are engaged in the business of selling cigarettes or 62947
tobacco products to others for the purpose of resale. 62948

"Wholesale dealer" does not include any cigarette 62949
manufacturer, export warehouse proprietor, or importer with a 62950
valid permit under 26 U.S.C. 5713 if that person sells cigarettes 62951
in this state only to wholesale dealers holding valid and current 62952
licenses under section 5743.15 of the Revised Code or to an export 62953
warehouse proprietor or another manufacturer. 62954

(C) "Retail dealer" includes: 62955

(1) In reference to dealers in cigarettes, every person other 62956
than a wholesale dealer engaged in the business of selling 62957
cigarettes in this state, irrespective regardless of whether the 62958
person is located in this state or elsewhere, and regardless of 62959
quantity, amount, or number of sales; 62960

(2) In reference to dealers in tobacco products, any person 62961
in this state engaged in the business of selling tobacco products 62962
to ultimate consumers in this state, regardless of quantity, 62963
amount, or number of sales. 62964

(D) "Sale" includes exchange, barter, gift, offer for sale, 62965
and distribution, and ~~excludes~~ includes transactions in interstate 62966
or foreign commerce. 62967

(E) "Cigarettes" includes any roll for smoking made wholly or 62968
in part of tobacco, irrespective of size or shape, and whether or 62969

not such tobacco is flavored, adulterated, or mixed with any other
ingredient, the wrapper or cover of which is made of paper,
reconstituted cigarette tobacco, homogenized cigarette tobacco,
cigarette tobacco sheet, or any similar materials other than cigar
tobacco.

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(F) "Package" means the individual package, box, or other
container in or from which retail sales of cigarettes are normally
made or intended to be made.

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(G) "Stamp" includes an impression made by a metering device
as provided for in section 5743.04 of the Revised Code.

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(H) "Storage" includes any keeping or retention of cigarettes
or tobacco products for use or consumption in this state.

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(I) "Use" includes the exercise of any right or power
incidental to the ownership of cigarettes or tobacco products.

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(J) "Tobacco product" means any product made from tobacco,
other than cigarettes, that is made for smoking or chewing, or
both, and snuff.

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(K) "Wholesale price" means the invoice price, including all
federal excise taxes, at which the manufacturer of the tobacco
product sells the tobacco product to unaffiliated distributors,
excluding any discounts based on the method of payment of the
invoice or on time of payment of the invoice. If the taxpayer buys
from other than a manufacturer, "wholesale price" means the
invoice price, including all federal excise taxes and excluding
any discounts based on the method of payment of the invoice or on
time of payment of the invoice.

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(L) "Distributor" means:

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(1) Any manufacturer who sells, barter, exchanges, or
distributes tobacco products to a retail dealer in the state,
except when selling to a retail dealer that has filed with the

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manufacturer a signed statement agreeing to pay and be liable for 63000
the tax imposed by section 5743.51 of the Revised Code; 63001

(2) Any wholesale dealer located in the state who receives 63002
tobacco products from a manufacturer, or who receives tobacco 63003
products on which the tax imposed by this chapter has not been 63004
paid; 63005

(3) Any wholesale dealer located outside the state who sells, 63006
barters, exchanges, or distributes tobacco products to a wholesale 63007
or retail dealer in the state; or 63008

(4) Any retail dealer who receives tobacco products on which 63009
the tax has not or will not be paid by another distributor, 63010
including a retail dealer that has filed a signed statement with a 63011
manufacturer in which the retail dealer agrees to pay and be 63012
liable for the tax that would otherwise be imposed on the 63013
manufacturer by section 5743.51 of the Revised Code. 63014

(M) "Taxpayer" means any person liable for the tax imposed by 63015
section 5743.51, 5743.62, or 5743.63 of the Revised Code. 63016

(N) "Seller" means any person located outside this state 63017
engaged in the business of selling tobacco products to consumers 63018
for storage, use, or other consumption in this state. 63019

(O) "Manufacturer" means any person who manufactures and 63020
sells cigarettes or tobacco products. 63021

(P) "Importer" means any person that imports finished 63022
cigarettes into the United States, either directly or indirectly. 63023

(Q) "Indian tribal entity" means a federally recognized 63024
Indian tribe, tribal entity, or any other person doing business as 63025
a distributor or retailer of cigarettes on the Indian country of 63026
such a tribe within this state. 63027

(R) "Indian country" has the same meaning as in 18 U.S.C. 63028
1151. 63029

Sec. 5743.02. To provide revenues for the general revenue 63030
fund, an excise tax on sales of cigarettes is hereby levied at the 63031
rate of ~~twenty seven and one half~~ fifty mills on each cigarette. 63032

Only one sale of the same article shall be used in computing 63033
the amount of tax due. 63034

The treasurer of state shall place to the credit of the tax 63035
refund fund created by section 5703.052 of the Revised Code, out 63036
of receipts from the tax levied by this section, amounts equal to 63037
the refunds certified by the tax commissioner pursuant to section 63038
5743.05 of the Revised Code. The balance of taxes collected under 63039
such section, after the credits to the tax refund fund, shall be 63040
paid into the general revenue fund. 63041

Sec. 5743.021. (A)(1) Cigarettes sold to or received by 63042
members of a federally recognized Indian tribe on the tribe's 63043
Indian country are not subject to the taxes imposed under section 63044
5743.02, 5743.024, or 5743.026 of the Revised Code. 63045

(2) Cigarettes sold to the United States government or to any 63046
instrumentality thereof are not subject to the taxes imposed under 63047
section 5743.02, 5743.024, or 5743.026 of the Revised Code. 63048

(3) Cigarettes sold into foreign commerce or for use or 63049
consumption on ships regularly engaged in foreign commerce or 63050
interstate shipping are not subject to the taxes imposed under 63051
section 5743.02, 5743.024, or 5743.026 of the Revised Code. 63052

(B) The rate of tax on cigarettes sold to or received by 63053
nontribal members within Indian country shall equal the sum of the 63054
rates under section 5743.02 and, if applicable, section 5743.024 63055
or 5743.026 of the Revised Code, less than any tribal tax rate, 63056
provided that the resulting rate shall not be less than zero cents 63057
per cigarette. Cigarettes sold or distributed to nontribal members 63058
shall bear a tax stamp as required by section 5743.03 of the 63059

Revised Code, but the tax commissioner periodically shall rebate 63060
to any Indian tribal entity that complies with this chapter an 63061
amount equal to the lesser of the tribal tax imposed on such sale 63062
or receipt of cigarettes or the face value of the tax stamps 63063
affixed to such cigarettes. 63064

(C) The tax commissioner shall prescribe rules governing the 63065
percentages of cigarette packages offered for sale by an Indian 63066
tribal entity that require tax stamps and tax-exempt stamps under 63067
section 5743.03 of the Revised Code. The percentages shall be 63068
based on the anticipated percentages of sales of cigarettes within 63069
the Indian country that are to be made to persons other than 63070
tribal members. 63071

Sec. 5743.022. (A) As used in this section, "regional arts 63072
and cultural district" means a regional arts and cultural district 63073
created under section 3381.04 of the Revised Code, or a regional 63074
arts and cultural district created under section 3381.03 of the 63075
Revised Code if the territory of the district is coextensive with 63076
the territory of a county that has a population of at least one 63077
and one-quarter million according to the most recent federal 63078
decennial census. 63079

(B) For one or more of the purposes for which a tax may be 63080
levied under section 3381.16 of the Revised Code and for the 63081
purposes of paying the expenses of administering the tax and the 63082
expenses charged by a board of elections to hold an election on a 63083
question submitted under this section, the board of trustees of a 63084
regional arts and cultural district may levy a tax on the sale of 63085
cigarettes sold for resale at retail in the county composing the 63086
district. The rate of the tax, when added to the rate of any other 63087
tax concurrently levied by the board under this section, shall not 63088
exceed twelve and one-half mills per cigarette, and shall be 63089
computed on each cigarette sold. Only one sale of the same article 63090

shall be used in computing the amount of tax due. The tax may be 63091
levied for any number of years not exceeding five years. 63092

The tax shall be levied pursuant to a resolution of the board 63093
of trustees approved by a majority of the electors in the county 63094
voting on the question of levying the tax. The resolution shall 63095
specify the rate of the tax, the number of years the tax will be 63096
levied, and the purposes for which the tax is levied. The election 63097
may be held on the date of a general or special election held not 63098
sooner than seventy-five days after the date the board certifies 63099
its resolution to the board of elections. If approved by the 63100
electors, the tax shall take effect on the first day of the month 63101
specified in the resolution but not sooner than the first day of 63102
the month that is at least sixty days after the certification of 63103
the election results by the board of elections. A copy of the 63104
resolution levying the tax shall be certified to the tax 63105
commissioner at least sixty days prior to the date on which the 63106
tax is to become effective. 63107

(C) The form of the ballot in an election held under this 63108
section shall be as follows, or in any other form acceptable to 63109
the secretary of state: 63110

"For the purpose of (insert the purpose or 63111
purposes of the tax), shall an excise tax be levied throughout 63112
..... County by the (name of the regional arts 63113
and cultural district) on the sale of cigarettes at wholesale at 63114
the rate of mills per cigarette for years? 63115

	For the tax	"
	Against the tax	

(D) The treasurer of state shall credit all moneys arising 63116
from each district's taxes levied under this section and section 63117
5743.321 of the Revised Code as follows: 63118
63119
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63121

(1) To the tax refund fund created by section 5703.052 of the Revised Code, amounts equal to the refunds from each tax levied under this section certified by the tax commissioner pursuant to section 5743.05 of the Revised Code; 63122
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63124
63125

(2) Following the crediting of amounts pursuant to division (D)(1) of this section: 63126
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(a) To the permissive tax distribution fund created under section 4301.423 of the Revised Code, an amount equal to ninety-eight per cent of the remainder collected; 63128
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63130

(b) To the local excise tax administrative fund, which is hereby created in the state treasury, an amount equal to two per cent of the remainder collected, for use by the tax commissioner in defraying costs incurred in administering the tax. 63131
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On or before the second working day of each month, the treasurer of state shall certify to the tax commissioner the amount of each district's taxes levied under sections 5743.022 and 5743.321 of the Revised Code and paid to the treasurer of state during the preceding month. 63135
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On or before the tenth day of each month, the tax commissioner shall distribute the amount credited to the permissive tax distribution fund during the preceding month by providing for payment of the appropriate amount to the county treasurer of the county in which the tax is levied. 63140
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Sec. 5743.025. In addition to the return required by section 5743.03 of the Revised Code, each retail dealer in a county ~~levying in which~~ a tax is levied under section 5743.022, 5743.024, or 5743.026 of the Revised Code shall, within thirty days after the date on which ~~a tax levied under such section~~ the tax takes effect, make and file a return, on forms prescribed by the tax commissioner, showing the total number of cigarettes which such 63145
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retail dealer had on hand as of the beginning of business on the 63152
date on which the tax takes effect, and such other information as 63153
the commissioner deems necessary for the administration of section 63154
5743.022, 5743.024, or 5743.026 of the Revised Code. Each retail 63155
dealer shall deliver the return together with a remittance of the 63156
additional amount of tax due on the cigarettes shown on such 63157
return to the treasurer of state. The treasurer of state shall 63158
stamp or otherwise mark on the return the date it was received and 63159
shall also show thereon by stamp or otherwise the tax payment 63160
remitted with the return. Thereafter, the treasurer of state shall 63161
immediately transmit all returns filed under this section to the 63162
tax commissioner. Any retail dealer who fails to file a return 63163
under this section shall, for each day the retail dealer so fails, 63164
forfeit and pay into the state treasury the sum of one dollar as 63165
revenue arising from the tax imposed by section 5743.022, 63166
5743.024, or 5743.026 of the Revised Code, and such sum may be 63167
collected by assessment in the manner provided in section 5743.081 63168
of the Revised Code. For thirty days after the effective date of a 63169
tax imposed by section 5743.022, 5743.024, or 5743.026 of the 63170
Revised Code, a retail dealer may possess for sale or sell in the 63171
county in which the tax is levied cigarettes not bearing the stamp 63172
or impression required by section 5743.03 of the Revised Code to 63173
evidence payment of the county tax but on which the tax has or 63174
will be paid. 63175

Sec. 5743.03. (A) Except as provided in section 5743.04 of 63176
the Revised Code, the taxes imposed under sections 5743.02, 63177
5743.022, 5743.024, and 5743.026 of the Revised Code shall be paid 63178
by the purchase of stamps. A stamp shall be affixed to each 63179
package of cigarettes subject to taxes imposed under section 63180
5743.02 and section 5743.024 or 5743.026 of the Revised Code and 63181
not intended for sale or distribution to consumers the sale or 63182
distribution to which is exempted from such taxes under division 63183

(A) of section 5743.021 of the Revised Code. The stamp shall be in 63184
an aggregate denomination not less than the amount of the tax upon 63185
the contents thereof. In the case of cigarettes subject to 63186
division (B) of section 5743.021 of the Revised Code, the stamp 63187
shall be in an aggregate denomination not less than the amount of 63188
tax imposed under those sections without regard to the reduction 63189
for any Indian tribal tax under that division. The stamp, so 63190
affixed, shall be prima-facie evidence of payment of the tax. 63191
~~Except~~ No tax stamp shall be applied to any package of cigarettes 63192
exempted from taxation under 26 U.S.C. 5701 that is distributed by 63193
a manufacturer pursuant to federal regulations. 63194

If cigarettes are intended for sale to consumers the sale to 63195
which is exempt from taxes under division (A) of section 5743.021 63196
of the Revised Code, a tax-exempt stamp shall be affixed to the 63197
package. A tax-exempt stamp, so affixed, is prima-facie evidence 63198
of the exemption from the taxes imposed under section 5743.02 and 63199
section 5743.024 or 5743.026 of the Revised Code. The tax 63200
commissioner shall provide such tax-exempt stamps without charge. 63201

Except as is provided in the rules prescribed by the tax 63202
commissioner under authority of sections 5743.01 to 5743.20 of the 63203
Revised Code, and unless ~~such~~ tax stamps or tax-exempt stamps have 63204
been previously affixed, they shall be so affixed by each 63205
wholesale dealer, and canceled by writing or stamping across the 63206
face thereof the number assigned to such wholesale dealer by the 63207
tax commissioner for that purpose, prior to the delivery of any 63208
cigarettes to any person in this state, or in the case of a tax 63209
levied pursuant to section 5743.022, 5743.024, or 5743.026 of the 63210
Revised Code, prior to the delivery of cigarettes to any person in 63211
the county in which the tax is levied. 63212

(B) Except as provided in the rules prescribed by the 63213
commissioner under authority of sections 5743.01 to 5743.20 of the 63214
Revised Code, ~~and unless such stamps have been previously affixed,~~ 63215

each retail dealer ~~shall~~, within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business ~~and prior to the delivery thereof, shall inspect the cigarettes to ensure that tax stamps are affixed and canceled. The inspection shall be completed before the cigarettes are delivered~~ to any person in this state, or, in the case of a tax levied pursuant to section ~~5743.022, 5743.024, or 5743.026~~ of the Revised Code ~~prior to the delivery thereof, before the cigarettes are delivered~~ to any person in the county in which the tax is levied, ~~so affix such stamps and cancel same by writing or stamping across the face thereof the number assigned to such retail dealer by the commissioner for that purpose.~~

(C) Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

(D) Each wholesale dealer ~~and each retail dealer~~ who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the thirty-first day of the month following the close of each semiannual period, which period shall end on the thirtieth day of June and the thirty-first day of December of each year, make and file a return of the preceding semiannual period, on such form as is prescribed by the tax commissioner, showing the dealer's entire purchases and sales of cigarettes and stamps or impressions for such semiannual period and accurate inventories as of the beginning and end of each semiannual period of cigarettes, stamped or unstamped; cigarette tax stamps affixed or unaffixed and unused meter impressions; and such other information as the commissioner finds necessary to the proper administration of sections 5743.01 to 5743.20 of the Revised Code. The commissioner may extend the time for making and filing returns and may remit

all or any part of amounts of penalties that may become due under 63248
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 63249
~~retail~~ dealer shall deliver the return together with a remittance 63250
of the tax deficiency reported thereon to the treasurer of state. 63251
The treasurer of state shall stamp or otherwise mark on the return 63252
the date it was received and shall also show thereon by stamp or 63253
otherwise a payment or nonpayment of the deficiency shown by the 63254
return. Thereafter, the treasurer of state shall immediately 63255
transmit all returns filed under this section to the commissioner. 63256

(E) Any wholesale ~~or retail~~ dealer who fails to file a return 63257
under this section and the rules of the commissioner, other than a 63258
report required pursuant to division (F) of this section, may be 63259
required, for each day the dealer so fails, to forfeit and pay 63260
into the state treasury the sum of one dollar as revenue arising 63261
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 63262
Code and such sum may be collected by assessment in the manner 63263
provided in section 5743.081 of the Revised Code. If the 63264
commissioner finds it necessary in order to insure the payment of 63265
the tax imposed by sections 5743.01 to 5743.20 of the Revised 63266
Code, the commissioner may require returns and payments to be made 63267
other than semiannually. The returns shall be signed by the 63268
wholesale ~~or retail~~ dealer or an authorized agent thereof. 63269

(F) Each person required to file a tax return under section 63270
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 63271
the commissioner the quantity of all cigarettes and roll-your-own 63272
cigarette tobacco sold in Ohio for each brand not covered by the 63273
tobacco master settlement agreement for which the person is liable 63274
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 63275
the Revised Code. 63276

As used in this division, "tobacco master settlement 63277
agreement" has the same meaning as in section 183.01 of the 63278
Revised Code. 63279

(G) The report required by division (F) of this section shall 63280
be made on a form prescribed by the commissioner and shall be 63281
filed not later than the last day of each month for the previous 63282
month, except that if the commissioner determines that the 63283
quantity reported by a person does not warrant monthly reporting, 63284
the commissioner may authorize reporting at less frequent 63285
intervals. The commissioner may assess a penalty of not more than 63286
two hundred fifty dollars for each month or portion thereof that a 63287
person fails to timely file a required report, and such sum may be 63288
collected by assessment in the manner provided in section 5743.081 63289
of the Revised Code. All money collected under this division shall 63290
be considered as revenue arising from the taxes imposed by 63291
sections 5743.01 to 5743.20 of the Revised Code. 63292

Sec. 5743.031. (A) A wholesale dealer may affix stamps only 63293
to packages of cigarettes that the dealer received directly from a 63294
manufacturer or importer of cigarettes that possesses a valid and 63295
current license under section 5743.15 of the Revised Code, or to 63296
packages of cigarettes that the dealer received from another 63297
wholesale dealer that possesses a valid and current license under 63298
section 5743.15 of the Revised Code, provided that the tax 63299
commissioner has authorized the sale of the cigarettes between 63300
those wholesale dealers and that the wholesale dealer that sells 63301
the cigarettes received them directly from a manufacturer or 63302
importer of cigarettes that possesses a valid and current license 63303
under section 5743.15 of the Revised Code. 63304

(B) Only a wholesale dealer that possesses a valid and 63305
current license under section 5743.15 of the Revised Code may 63306
purchase or obtain tax stamps or tax-exempt stamps. A wholesale 63307
dealer may not sell or provide such stamps to any other wholesale 63308
dealer or any other person. 63309

(C) Any person shipping unstamped packages of cigarettes into 63310

this state to a person other than a wholesale dealer licensed 63311
under section 5743.15 of the Revised Code shall, before such 63312
shipment, file notice of the shipment with the tax commissioner. 63313
Any person that transports unstamped packages of cigarettes into 63314
or within this state shall carry in the vehicle used to convey the 63315
shipment invoices or equivalent documentation of the shipment for 63316
all cigarettes in the shipment. The invoices or other 63317
documentation shall show the true name and address of the 63318
consignor or seller, the true name and address of the consignee or 63319
purchaser, and the quantity, by brand style, of the cigarettes 63320
being transported. This division does not apply to any common or 63321
contract carrier transporting cigarettes through this state to 63322
another location under a proper bill of lading or freight bill 63323
that states the quantity, source, and destination of the 63324
cigarettes. 63325

Sec. 5743.04. The tax commissioner shall design and procure 63326
the stamps provided for in section 5743.03 of the Revised Code and 63327
shall enforce and administer sections 5743.01 to 5743.44 of the 63328
Revised Code. With respect to packages containing any number of 63329
cigarettes other than twenty, if the commissioner finds that it is 63330
practicable to collect the taxes levied under sections 5743.02, 63331
5743.022, 5743.024, and 5743.026 of the Revised Code by any method 63332
other than that provided in this section and section 5743.03 of 63333
the Revised Code, the commissioner may by rule prescribe such 63334
other method for payment of the taxes upon such packages of 63335
cigarettes as will adequately protect the revenue; provided, that 63336
in any case where the commissioner prescribes that the taxes upon 63337
such packages of cigarettes shall be paid on the basis of returns 63338
filed by a wholesale or retail dealer, said returns, together with 63339
a remittance of all taxes due as shown thereon, shall be filed 63340
with the treasurer of state not later than the tenth day of the 63341
month following the month in which such cigarettes are sold in 63342

this state. The commissioner may promulgate rules in accordance 63343
with sections 119.01 to 119.13 of the Revised Code as the 63344
commissioner deems necessary to carry out sections 5743.01 to 63345
5743.44 of the Revised Code and may adopt different detailed rules 63346
applicable to diverse methods and conditions of sale of 63347
cigarettes, prescribing, in each class of cases, upon whom, as 63348
between the wholesale dealer and the retail dealer, the primary 63349
duty of affixing stamps shall rest, and the manner in which stamps 63350
shall be affixed. A copy of such rules shall be furnished to every 63351
licensed dealer as provided in sections 119.01 to 119.13 of the 63352
Revised Code. Any such rule so furnished which excuses a wholesale 63353
dealer from affixing stamps under the circumstances of the 63354
particular case shall be a defense in the prosecution of such 63355
dealer for violation of section 5743.03 of the Revised Code. 63356

The commissioner, after determining that it is practicable to 63357
evidence payment of the taxes levied under sections 5743.02, 63358
5743.022, 5743.024, and 5743.026 of the Revised Code by impression 63359
made by a metering device, shall by resolution provide that such 63360
metering device may be used in lieu of the stamps otherwise 63361
provided for in section 5743.03 of the Revised Code. The 63362
commissioner may authorize any wholesale or retail dealer to use 63363
the metering device approved by the commissioner. Such device 63364
before being used shall be sealed by the treasurer of state, and 63365
shall be used only in accordance with the rules prescribed by the 63366
commissioner. 63367

Wholesale and retail dealers authorized to use said device 63368
shall prepay the tax represented by meter impressions and shall 63369
deliver the metering device to the treasurer of state or county 63370
treasurer in the county in which the place of business of any 63371
wholesaler or retailer is located if such treasurer is designated 63372
by the treasurer of state, who shall seal the meter in accordance 63373
with the prepayments so made. 63374

Sec. 5743.05. All stamps provided for by section 5743.03 of 63375
the Revised Code, when procured by the tax commissioner, shall be 63376
immediately delivered to the treasurer of state, who shall execute 63377
a receipt therefor showing the number and aggregate face value of 63378
each denomination received by the treasurer of state and any other 63379
information that the commissioner requires to enforce the 63380
collection and distribution of all taxes imposed under section 63381
5743.022, 5743.024, or 5743.026 of the Revised Code, and deliver 63382
the receipt to the commissioner. The treasurer of state shall sell 63383
the stamps and, on the fifth day of each month, make a report 63384
showing all sales made during the preceding month, with the names 63385
of purchasers, the number of each denomination, the aggregate face 63386
value purchased by each, and any other information as the 63387
commissioner requires to enforce the collection and distribution 63388
of all taxes imposed under section 5743.022, 5743.024, or 5743.026 63389
of the Revised Code, and deliver it to the commissioner. The 63390
treasurer of state shall be accountable for all stamps received 63391
and unsold. The stamps shall be sold and accounted for at their 63392
face value, except the commissioner shall, by rule certified to 63393
the treasurer of state, authorize the sale of stamps and meter 63394
impressions to wholesale or retail dealers in this state, or to 63395
wholesale dealers outside this state, at a discount of not less 63396
than one and eight-tenths per cent or more than ten per cent of 63397
their face value, as a commission for affixing and canceling the 63398
stamps or meter impressions. 63399

The commissioner, by rule certified to the treasurer of 63400
state, shall authorize the delivery of stamps and meter 63401
impressions to wholesale ~~and retail~~ dealers in this state and to 63402
wholesale dealers outside this state on credit. If such a dealer 63403
has not been in good credit standing with this state for five 63404
consecutive years preceding the purchase, the tax commissioner 63405
shall require the dealer to file with the commissioner a bond to 63406

the state in the amount and in the form prescribed by the 63407
commissioner, with surety to the satisfaction of the commissioner, 63408
conditioned on payment to the treasurer of state within thirty 63409
days for stamps or meter impressions delivered within that time. 63410
If such a dealer has been in good credit standing with this state 63411
for five consecutive years preceding the purchase, the tax 63412
commissioner shall not require that the dealer file such a bond 63413
but shall require payment for the stamps and meter impressions 63414
within thirty days after purchase of the stamps and meter 63415
impressions. Stamps and meter impressions sold to a dealer not 63416
required to file a bond shall be sold at face value. The maximum 63417
amount that may be sold on credit to a dealer not required to file 63418
a bond shall equal one hundred ten per cent of the dealer's 63419
average monthly purchases over the preceding calendar year. The 63420
maximum amount shall be adjusted to reflect any changes in the tax 63421
rate and may be adjusted, upon application to the tax commissioner 63422
by the dealer, to reflect changes in the business operations of 63423
the dealer. The maximum amount shall be applicable to the period 63424
of July through April. Payment by a dealer not required to file a 63425
bond shall be remitted by electronic funds transfer as prescribed 63426
by section 5743.051 of the Revised Code. If a dealer not required 63427
to file a bond fails to make the payment in full within the 63428
thirty-day period, the treasurer of state shall not thereafter 63429
sell stamps or meter impressions to that dealer until the dealer 63430
pays the outstanding amount, including penalty and interest on 63431
that amount as prescribed in this chapter, and the commissioner 63432
thereafter may require the dealer to file a bond until the dealer 63433
is restored to good standing. The commissioner shall limit 63434
delivery of stamps and meter impressions on credit to the period 63435
running from the first day of July of the fiscal year until the 63436
first day of the following May. Any discount allowed as a 63437
commission for affixing and canceling stamps or meter impressions 63438
shall be allowed with respect to sales of stamps and meter 63439

impressions on credit. 63440

The treasurer of state shall redeem and pay for any 63441
destroyed, unused, or spoiled tax stamps and any unused meter 63442
impressions at their net value, and shall refund to wholesale 63443
dealers the net amount of state and county taxes paid erroneously 63444
or paid on cigarettes that have been sold in interstate or foreign 63445
commerce or that have become unsalable, and the net amount of 63446
county taxes that were paid on cigarettes that have been sold at 63447
retail or for retail sale outside a taxing county. 63448

An application for a refund of tax shall be filed with the 63449
tax commissioner, on the form prescribed by the commissioner for 63450
that purpose, within three years from the date the tax stamps are 63451
destroyed or spoiled, from the date of the erroneous payment, or 63452
from the date that cigarettes on which taxes have been paid have 63453
been sold in interstate or foreign commerce or have become 63454
unsalable. 63455

On the filing of the application, the commissioner shall 63456
determine the amount of refund to which the applicant is entitled, 63457
payable from receipts of the state tax, and, if applicable, 63458
payable from receipts of a county tax. If the amount is less than 63459
that claimed, the commissioner shall certify the amount to the 63460
director of budget and management and treasurer of state for 63461
payment from the tax refund fund created by section 5703.052 of 63462
the Revised Code. If the amount is less than that claimed, the 63463
commissioner shall proceed in accordance with section 5703.70 of 63464
the Revised Code. 63465

If a refund is granted for payment of an illegal or erroneous 63466
assessment issued by the department, the refund shall include 63467
interest on the amount of the refund from the date of the 63468
overpayment. The interest shall be computed at the rate per annum 63469
prescribed by section 5703.47 of the Revised Code. 63470

Sec. 5743.071. Each manufacturer, each importer, each 63471
wholesale dealer, and each retail dealer shall maintain complete 63472
and accurate records of all purchases and sales of cigarettes, and 63473
shall procure and retain all invoices, bills of lading, and other 63474
documents relating to the purchases and sales of cigarettes, 63475
except that no retail dealer shall be required to issue or 63476
maintain invoices relating to ~~his~~ the retail dealer's sales of 63477
cigarettes. The invoices or documents shall be maintained for each 63478
place of business and shall show the name and address of the other 63479
party to the purchase or sale and shall show the quantity, by 63480
brand style, of the cigarettes so sold or purchased. 63481

The records and documents shall be open during business hours 63482
to the inspection of the tax commissioner, and shall be preserved 63483
for a period of three years, unless the commissioner, in writing, 63484
consents to their destruction within that period, or by order 63485
requires that they be kept for a longer period. With the tax 63486
commissioner's consent, a person with multiple places of business 63487
may keep centralized records but shall transmit duplicates of the 63488
invoices or documents to each place of business within seventy-two 63489
hours after the tax commissioner or the tax commissioner's 63490
designee requests access to the records. 63491

Public access to reports submitted by license holders shall 63492
be provided under the procedures prescribed under division (B) of 63493
section 149.43 of the Revised Code. Information regarding 63494
quantities of cigarettes by brand style shall not be made 63495
available to any person other than the tax commissioner or the tax 63496
commissioner's designee, the United States secretary of the 63497
treasury or the secretary's designee, or law enforcement 63498
officials. 63499

Sec. 5743.072. (A) Each manufacturer and each importer 63500

shipping cigarettes into or within this state shall file a monthly report with the tax commissioner in accordance with rules adopted by the tax commissioner under Chapter 119. of the Revised Code. 63501
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(B) Indian tribal entities engaged in the retail sale or distribution of cigarettes shall include in the report required under this section the name and address of each nontribal member that purchased cigarettes during the reporting period and the quantity of cigarettes, by brand style, so purchased. 63504
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Sec. 5743.08. Whenever the tax commissioner discovers any cigarettes, subject to the taxes levied under section 5743.02, 5743.022, 5743.024, or 5743.026 of the Revised Code, and upon which the taxes have not been paid or that are held for sale or distribution in violation of any other provision of this chapter, the commissioner may seize and take possession of such cigarettes, which shall thereupon be forfeited to the state, and the commissioner ~~may,~~ within a reasonable time thereafter ~~sell,~~ shall destroy the forfeited cigarettes. ~~From the proceeds of the sale,~~ ~~the tax commissioner shall pay the costs incurred in such proceedings,~~ and any proceeds remaining after the costs are paid shall be considered as revenue arising from the tax; ~~provided that the~~ Such seizure and ~~sale shall not be deemed to~~ destruction does not relieve any person from the fine or imprisonment provided for violation of sections 5743.01 to 5743.20 of the Revised Code. ~~The sale shall be made where it is most convenient and economical. The tax commissioner may order the destruction of the forfeited cigarettes if the quantity or quality of the cigarettes is not sufficient to warrant their sale.~~ 63509
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Sec. 5743.081. (A) If any wholesale dealer or retail dealer fails to pay the tax levied under section 5743.02, 5743.021, 5743.024, or 5743.026 of the Revised Code as required by sections 63528
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5743.01 to 5743.20 of the Revised Code, and by the rules of the 63531
tax commissioner, or fails to collect the tax from the purchaser 63532
or consumer, the commissioner may make an assessment against the 63533
wholesale or retail dealer based upon any information in the 63534
commissioner's possession. 63535

The commissioner may make an assessment against any wholesale 63536
or retail dealer who fails to file a return required by section 63537
5743.03 or 5743.025 of the Revised Code. 63538

No assessment shall be made against any wholesale or retail 63539
dealer for any taxes imposed under section 5743.02, 5743.022, 63540
5743.024, or 5743.026 of the Revised Code more than three years 63541
after the last day of the calendar month that immediately follows 63542
the semiannual period prescribed in section 5743.03 of the Revised 63543
Code in which the sale was made, or more than three years after 63544
the semiannual return for such period is filed, whichever is 63545
later. This section does not bar an assessment against any 63546
wholesale or retail dealer who fails to file a return as required 63547
by section 5743.025 or 5743.03 of the Revised Code, or who files a 63548
fraudulent return. 63549

A penalty of up to thirty per cent may be added to the amount 63550
of every assessment made under this section. The commissioner may 63551
adopt rules providing for the imposition and remission of 63552
penalties added to assessments made under this section. 63553

The commissioner shall give the party assessed written notice 63554
of the assessment in the manner provided in section 5703.37 of the 63555
Revised Code. The notice shall specify separately any portion of 63556
the assessment that represents a county tax. With the notice, the 63557
commissioner shall provide instructions on how to petition for 63558
reassessment and request a hearing on the petition. 63559

(B) Unless the party assessed files with the tax commissioner 63560
within sixty days after service of the notice of assessment, 63561

either personally or by certified mail, a written petition for
reassessment signed by the party assessed or that party's
authorized agent having knowledge of the facts, the assessment
becomes final and the amount of the assessment is due and payable
from the party assessed to the treasurer of state. The petition
shall indicate the objections of the party assessed, but
additional objections may be raised in writing if received by the
commissioner prior to the date shown on the final determination.
If the petition has been properly filed, the commissioner shall
proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the
assessment remains unpaid, including accrued interest, a certified
copy of the tax commissioner's entry making the assessment final
may be filed in the office of the clerk of the court of common
pleas in the county in which the wholesale or retail dealer's
place of business is located or the county in which the party
assessed resides. If the party assessed maintains no place of
business in this state and is not a resident of this state, the
certified copy of the entry may be filed in the office of the
clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the commissioner's entry, the
clerk shall enter a judgment for the state against the party
assessed in the amount shown on the entry. The judgment may be
filed by the clerk in a loose-leaf book entitled "special
judgments for state cigarette sales tax," and shall have the same
effect as other judgments. Execution shall issue upon the judgment
upon the request of the tax commissioner, and all laws applicable
to sales on execution shall apply to sales made under the
judgment, except as otherwise provided in sections 5743.01 to
5743.20 of the Revised Code.

The portion of the assessment not paid within sixty days
after the assessment was issued shall bear interest at the rate

per annum prescribed by section 5703.47 of the Revised Code from 63594
the day the commissioner issues the assessment until it is paid. 63595
Interest shall be paid in the same manner as the tax and may be 63596
collected by the issuance of an assessment under this section. 63597

(D) All money collected by the tax commissioner under this 63598
section shall be paid to the treasurer of state, and when paid 63599
shall be considered as revenue arising from the taxes imposed by 63600
sections 5743.01 to 5743.20 of the Revised Code. 63601

Sec. 5743.12. No person shall make a false entry upon an 63602
invoice, package, or container of cigarettes upon which an entry 63603
is required by sections 5743.01 to 5743.20 of the Revised Code, 63604
nor shall any person present any such false entry for the 63605
inspection of the tax commissioner with intent to evade the tax 63606
levied under section 5743.02, 5743.022, 5743.024, or 5743.026 of 63607
the Revised Code. 63608

Sec. 5743.13. No person shall falsely or fraudulently make, 63609
forge, alter, or counterfeit any stamp prescribed by the tax 63610
commissioner under section 5743.03 of the Revised Code, or cause 63611
to be falsely or fraudulently made, forged, altered, or 63612
counterfeited any such stamp, or possess any counterfeiting 63613
device, or knowingly and willfully utter, publish, pass, or tender 63614
as true, any such false, altered, forged, or counterfeited stamp, 63615
or use more than once any such stamp for the purpose of evading 63616
the tax levied under section 5743.02, 5743.022, 5743.024, or 63617
5743.026 of the Revised Code. 63618

Sec. 5743.14. (A) The tax commissioner ~~may inspect any place~~ 63619
~~where cigarettes subject to the tax levied under section 5743.02,~~ 63620
~~5743.024, or 5743.026 of the Revised Code are sold or stored.~~ 63621

~~(B) or an agent of the tax commissioner may enter and inspect~~ 63622

the facilities and records of a manufacturer, importer, wholesale dealer, or retail dealer. Such entrance and inspection requires a properly issued search warrant if conducted outside the normal business hours of the manufacturer, importer, wholesale dealer, or retail dealer, but does not require a search warrant if conducted during the normal business hours of the manufacturer, importer, wholesale dealer, or retail dealer. No person shall prevent or hinder the tax commissioner or an agent of the tax commissioner from making a full inspection of any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or papers required to be kept by sections 5743.01 to 5743.20 of the Revised Code carrying out the authority granted under this division.

(B) If the tax commissioner, an agent of the tax commissioner, or a law enforcement officer as defined in section 2901.01 of the Revised Code knows or has reasonable cause to believe that a motor vehicle is transporting cigarettes in violation of this chapter, the tax commissioner, agent, or law enforcement officer may stop the vehicle and inspect the vehicle to determine the presence of such cigarettes.

Sec. 5743.15. (A) No person shall engage in this state in the wholesale or retail business of trafficking in cigarettes ~~within this state~~ or in the business of a manufacturer or importer of cigarettes without having a license to ~~do so~~ conduct each such activity, except that on dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy.

Each applicant for a license under this section, annually, on 63655
or before the fourth Monday of May, shall make and deliver to the 63656
county auditor of the county in which ~~he~~ the applicant desires to 63657
engage in the wholesale or retail business of trafficking in 63658
cigarettes or in the business of a manufacturer or importer of 63659
cigarettes, upon a blank furnished by such auditor for that 63660
purpose, a statement showing the name of the applicant, each place 63661
in the county where the applicant's business is conducted, the 63662
nature of the business, and any other information the tax 63663
commissioner requires in the form of statement prescribed by ~~him~~ 63664
the commissioner. If the applicant is a firm, partnership, or 63665
association other than a corporation, the application shall state 63666
the name and address of each of its members. If the applicant is a 63667
corporation, the application shall state the name and address of 63668
each of its officers. At the time of making the application 63669
required by this section, every person desiring to engage in the 63670
wholesale business of trafficking in cigarettes shall pay into the 63671
county treasury a license tax in the sum of two hundred dollars, 63672
or if desiring to engage in the retail business of trafficking in 63673
cigarettes, a license tax in the sum of thirty dollars for each of 63674
the first five places where ~~he~~ the person proposes to carry on 63675
such business and twenty-five dollars for each additional place. 63676
Each place of business shall be deemed such space, under lease or 63677
license to, or under the control of, or under the supervision of 63678
the applicant, as is contained in one or more contiguous, 63679
adjacent, or adjoining buildings constituting an industrial plant 63680
or a place of business operated by, or under the control of, one 63681
person, or under one roof and connected by doors, halls, 63682
stairways, or elevators, which space may contain any number of 63683
points at which cigarettes are offered for sale, provided that 63684
each additional point at which cigarettes are offered for sale 63685
shall be listed in the application. 63686

Upon receipt of the application required by this section and 63687
exhibition of the county treasurer's receipt showing the payment 63688
of the tax, the county auditor shall issue to the applicant a 63689
license for each place of business designated in the application, 63690
authorizing the applicant to engage in such business at such place 63691
for one year commencing on the fourth Monday of May. Companies 63692
operating club or dining cars or other cars upon which cigarettes 63693
are sold shall obtain licenses at railroad terminals within the 63694
state, under such rules as are prescribed by the commissioner. The 63695
form of the license shall be prescribed by the commissioner. A 63696
duplicate license may be obtained from the county auditor upon 63697
payment of a fifty cent fee if the original license is lost, 63698
destroyed, or defaced. When an application is filed after the 63699
fourth Monday of May, the license tax required to be paid shall be 63700
proportioned in amount to the remainder of the license year, 63701
except that it shall not be less than one fifth of the whole 63702
amount in any one year. 63703

The holder of a wholesale or retail dealer's cigarette 63704
license may transfer the license to a place of business within the 63705
same county other than that designated on the license or may 63706
assign the license to another person for use in the same county on 63707
condition that the licensee or assignee, whichever is applicable, 63708
make application to the county auditor therefor, upon forms 63709
approved by the commissioner and the payment of a fee of one 63710
dollar into the county treasury. 63711

(B)(1) The wholesale cigarette license tax revenue collected 63712
under this section shall be distributed as follows: 63713

(a) Thirty-seven and one-half per cent shall be paid upon the 63714
warrant of the county auditor into the treasury of the municipal 63715
corporation or township in which the place of business for which 63716
the tax revenue was received is located; 63717

(b) Fifteen per cent shall be credited to the general fund of the county; 63718
63719

(c) Forty-seven and one-half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 63720
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(2) The revenue collected from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes shall be distributed as follows: 63723
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(a) Sixty-two and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located; 63727
63728
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(b) Twenty-two and one-half per cent shall be credited to the general fund of the county; 63731
63732

(c) Fifteen per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 63733
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(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows: 63735
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(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located; 63738
63739
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(b) One-fourth shall be credited to the general fund of the county. 63742
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(C) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 63744
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The portion of cigarette license tax revenues received by a county auditor during the annual application period that ends before the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year. The portion of license tax money received by each county auditor after the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirty-first day of December.

Sec. 5743.16. On or before the first Monday of June, annually, each county auditor shall certify to the tax commissioner a list showing the names of all persons licensed in ~~his~~ the auditor's county to engage in the business of trafficking in cigarettes, and such other information as to each, available from the records in the office of the auditor, as the commissioner prescribes. As such licenses are issued during the year, the auditor shall certify like lists and additions thereto to the commissioner. The commissioner shall keep an alphabetical index of such licenses certified to ~~him~~ the commissioner, and shall update the index of valid license holders on a regular basis.

Sec. 5743.18. Upon notice and hearing in accordance with sections 119.01 to 119.13 of the Revised Code, the tax commissioner may revoke any manufacturer, importer, wholesale, or retail cigarette license for violation of sections 5743.01 to 5743.21 of the Revised Code. A certified copy of the order revoking such license shall be transmitted to the county auditor of the county in which the license was issued.

Sec. 5743.19. No person shall engage in business as a manufacturer or importer, or in the wholesale or retail business of trafficking in cigarettes, without having a license therefor,

as required by section 5743.15 of the Revised Code. 63778

Sec. 5743.20. No person shall sell any cigarettes both as a 63779
retail dealer and as a wholesale dealer at the same place of 63780
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 63781
~~in this state other than to a licensed retail dealer; and no~~ No 63782
person other than a licensed wholesale dealer shall sell 63783
cigarettes to a licensed retail dealer. No retail dealer shall 63784
purchase cigarettes from any person other than a licensed 63785
wholesale dealer. 63786

A licensed wholesale dealer may not sell cigarettes to any 63787
person in this state other than a licensed retail dealer, except a 63788
licensed wholesale dealer may sell cigarettes to another licensed 63789
wholesale dealer if the tax commissioner has authorized the sale 63790
of the cigarettes between those wholesale dealers and the 63791
wholesale dealer that sells the cigarettes received them directly 63792
from a licensed manufacturer or licensed importer. 63793

The tax commissioner shall adopt rules governing sales of 63794
cigarettes between licensed wholesale dealers, including rules 63795
establishing criteria for authorizing such sales. 63796

No manufacturer or importer shall sell cigarettes to any 63797
person in this state other than to a licensed wholesale dealer or 63798
licensed importer. No importer shall purchase cigarettes from any 63799
person other than a licensed manufacturer or licensed importer. 63800

As used in this section, "licensed" means the manufacturer, 63801
importer, wholesale dealer, or retail dealer holds a current and 63802
valid license issued under section 5743.15 of the Revised Code. 63803

Sec. 5743.32. To provide revenue for the general revenue fund 63804
of the state, an excise tax is hereby levied on the use, 63805
consumption, or storage for consumption of cigarettes by consumers 63806
in this state at the rate of ~~twenty seven and one half~~ fifty mills 63807

on each cigarette. The tax shall not apply if the tax levied by 63808
section 5743.02 of the Revised Code has been paid. 63809

The money received into the state treasury from the excise 63810
tax levied by this section shall be credited to the general 63811
revenue fund. 63812

Sec. 5743.321. For the same purposes for which it levies a 63813
tax under section 5743.022 of the Revised Code, the board of 63814
trustees of a regional arts and cultural district that levies a 63815
tax under that section, by resolution adopted by a majority of the 63816
board, shall levy a tax at the same rate on the use, consumption, 63817
or storage for consumption of cigarettes by consumers in the 63818
county in which that tax is levied, provided that the tax shall 63819
not apply if the tax levied by section 5743.022 of the Revised 63820
Code has been paid. The tax shall take effect on the date that a 63821
tax levied under that section takes effect, and shall remain in 63822
effect as long as the tax levied under that section remains 63823
effective. 63824

Sec. 5743.33. Every person who has acquired cigarettes for 63825
use, storage, or other consumption subject to the tax levied under 63826
section 5743.32, 5743.321, 5743.323, or 5743.324 of the Revised 63827
Code, shall, on or before the fifteenth day of the month following 63828
receipt of such cigarettes, file with the tax commissioner a 63829
return showing the amount of cigarettes acquired, together with 63830
remittance of the tax thereon. No such person shall transport 63831
within this state, cigarettes that have a wholesale value in 63832
excess of ~~sixty~~ thirty three hundred dollars, unless that person has 63833
obtained consent to transport the cigarettes from the department 63834
of taxation prior to such transportation. Such consent shall not 63835
be required if the applicable taxes levied under sections 5743.02, 63836
5743.022, 5743.024, and 5743.026 of the Revised Code have been 63837
paid. Application for the consent shall be in the form prescribed 63838

by the tax commissioner. 63839

Every person transporting such cigarettes shall possess the 63840
consent while transporting or possessing the cigarettes within 63841
this state and shall produce the consent upon request of any law 63842
enforcement officer or authorized agent of the tax commissioner. 63843

Any person transporting such cigarettes without the consent 63844
required by this section, shall be subject to the provisions of 63845
this chapter, including the applicable taxes imposed by sections 63846
5743.02, 5743.022, 5743.024, and 5743.026 of the Revised Code. 63847

Sec. 5743.34. If any person required to pay the tax levied 63848
under section 5743.32, 5743.321, 5743.323, or 5743.324 of the 63849
Revised Code, fails to make remittance, the tax commissioner may 63850
issue an assessment against that person based on any information 63851
in the commissioner's possession. 63852

Sections 5743.081 and 5743.082 of the Revised Code relating 63853
to the assessments or findings, appeals from assessments or 63854
findings, the effect of assessments or findings before or after 63855
hearing and before or after filing the same in the office of the 63856
clerk of the court of common pleas, and all sections relating to 63857
the procedure, authority, duties, liabilities, powers, and 63858
privileges of the person assessed, the commissioner, the clerk, 63859
and all other public officials, shall be applicable to assessments 63860
made pursuant to this section. 63861

Sec. 5743.35. No person required by section 5743.33 of the 63862
Revised Code to file a return with the tax commissioner shall fail 63863
to make such return, or fail to pay the applicable taxes levied 63864
under section 5743.32, 5743.321, 5743.323, or 5743.324 of the 63865
Revised Code, or fail to pay any lawful assessment issued by the 63866
commissioner. 63867

Sec. 5743.51. (A) To provide revenue for the general revenue 63868
fund of the state, an excise tax on tobacco products is hereby 63869
levied at the rate of ~~seventeen~~ thirty per cent of the wholesale 63870
price of the tobacco product received by a distributor or sold by 63871
a manufacturer to a retail dealer located in this state. Each 63872
distributor who brings tobacco products, or causes tobacco 63873
products to be brought, into this state for distribution within 63874
this state, or any out-of-state distributor who sells tobacco 63875
products to wholesale or retail dealers located in this state for 63876
resale by those wholesale or retail dealers is liable for the tax 63877
imposed by this section. Only one sale of the same article shall 63878
be used in computing the amount of the tax due. 63879

(B) The treasurer of state shall place to the credit of the 63880
tax refund fund created by section 5703.052 of the Revised Code, 63881
out of the receipts from the tax levied by this section, amounts 63882
equal to the refunds certified by the tax commissioner pursuant to 63883
section 5743.53 of the Revised Code. The balance of the taxes 63884
collected under this section shall be paid into the general 63885
revenue fund. 63886

(C) The commissioner may adopt rules as are necessary to 63887
assist in the enforcement and administration of sections 5743.51 63888
to 5743.66 of the Revised Code, including rules providing for the 63889
remission of penalties imposed. 63890

(D) A manufacturer is not liable for payment of the tax 63891
imposed by this section for sales of tobacco products to a retail 63892
dealer that has filed a signed statement with the manufacturer in 63893
which the retail dealer agrees to pay and be liable for the tax, 63894
as long as the manufacturer has provided a copy of the statement 63895
to the tax commissioner. 63896

Sec. 5743.62. (A) To provide revenue for the general revenue 63897
fund of the state, an excise tax is hereby levied on the seller of 63898

tobacco products in this state at the rate of ~~seventeen~~ thirty per 63899
cent of the wholesale price of the tobacco product whenever the 63900
tobacco product is delivered to a consumer in this state for the 63901
storage, use, or other consumption of such tobacco products. The 63902
tax imposed by this section applies only to sellers having nexus 63903
in this state, as defined in section 5741.01 of the Revised Code. 63904

(B) A seller of tobacco products who has nexus in this state 63905
as defined in section 5741.01 of the Revised Code shall register 63906
with the tax commissioner and supply any information concerning 63907
the seller's contacts with this state as may be required by the 63908
tax commissioner. A seller who does not have nexus in this state 63909
may voluntarily register with the tax commissioner. A seller who 63910
voluntarily registers with the tax commissioner is entitled to the 63911
same benefits and is subject to the same duties and requirements 63912
as a seller required to be registered with the tax commissioner 63913
under this division. 63914

(C) Each seller of tobacco products subject to the tax levied 63915
by this section, on or before the last day of each month, shall 63916
file with the tax commissioner a return for the preceding month 63917
showing any information the tax commissioner finds necessary for 63918
the proper administration of sections 5743.51 to 5743.66 of the 63919
Revised Code, together with remittance of the tax due, payable to 63920
the treasurer of state. The return and payment of the tax required 63921
by this section shall be filed in such a manner that it is 63922
received by the tax commissioner on or before the last day of the 63923
month following the reporting period. If the return is filed and 63924
the amount of the tax shown on the return to be due is paid on or 63925
before the date the return is required to be filed, the seller is 63926
entitled to a discount equal to two and five-tenths per cent of 63927
the amount shown on the return to be due. 63928

(D) The tax commissioner shall immediately forward to the 63929
treasurer of state all money received from the tax levied by this 63930

section, and the treasurer shall credit the amount to the general revenue fund. 63931
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(E) Each seller of tobacco products subject to the tax levied by this section shall mark on the invoices of tobacco products sold that the tax levied by that section has been paid and shall indicate the seller's account number as assigned by the tax commissioner. 63933
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Sec. 5743.63. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption of tobacco products at the rate of ~~seventeen~~ thirty per cent of the wholesale price of the tobacco product, provided the tax has not been paid by the seller as provided in section 5743.62 of the Revised Code, or by the distributor as provided in section 5743.51 of the Revised Code. 63938
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(B) Each person subject to the tax levied by this section, on or before the last day of each month, shall file with the tax commissioner a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due, payable to the treasurer of state. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the tax commissioner on or before the last day of the month following the reporting period. 63945
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(C) The tax commissioner shall immediately forward to the treasurer of state all money received from the tax levied by this section, and the treasurer shall credit the amount to the general revenue fund. 63955
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Sec. 5743.71. As used in sections 5743.71 to 5743.76 of the Revised Code: 63959
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(A) "Cigarettes" has the same meaning as in section 5743.01 63961
of the Revised Code. 63962

(B) "Computer network" means the interconnection of 63963
communication lines or wireless telecommunications with a computer 63964
or wireless telecommunication device through remote terminals, a 63965
complex consisting of two or more interconnected computers, or a 63966
worldwide collection of interconnected networks operating as the 63967
internet. 63968

(C) "Delivery sale" means a transaction for the purchase of 63969
cigarettes in which an offer to purchase cigarettes is made 63970
electronically using a computer network or by mail and acceptance 63971
of the offer results in delivery of the cigarettes to a named 63972
individual at a designated address. 63973

(D) "Merchant" means a person that engages in selling 63974
cigarettes by delivery sale. 63975

Sec. 5743.72. A merchant shall not mail or ship cigarettes as 63976
part of a delivery sale to a customer to whom the merchant has not 63977
previously mailed or shipped cigarettes unless, before mailing or 63978
shipping the cigarettes, the merchant complies with divisions (A), 63979
(B), (C), and (D) of this section. A merchant shall not mail or 63980
ship cigarettes as part of a delivery sale to a customer to whom 63981
the merchant has previously mailed or shipped cigarettes, unless, 63982
before mailing or shipping the cigarettes, the merchant complies 63983
with divisions (C) and (D) of this section. A merchant that is 63984
mailing or shipping cigarettes as part of a delivery sale to a 63985
customer to whom the merchant has previously mailed or shipped 63986
cigarettes shall, prior to mailing or shipping the cigarettes, 63987
make a good faith effort to verify through its business records 63988
that the information required under division (B) of this section 63989
remains valid with respect to that customer. 63990

(A) The merchant shall provide to the prospective customer a written statement that: 63991
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(1) The prospective customer signs and returns to the merchant; 63993
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(2) When returned by the prospective customer, shows the prospective customer's name, address, and date of birth; 63995
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(3) Advises the prospective customer that purchasing cigarettes by a person under eighteen years of age is punishable by a fine of not more than one hundred dollars, that signing another person's name to the statement may subject the person to a penalty of not more than one thousand dollars, and that providing false information on the statement is a misdemeanor of the first degree, punishable by a fine up to one thousand dollars and imprisonment up to six months; 63997
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(4) Confirms that the order was placed by the prospective customer; 64005
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(5) Includes the warning provided under 15 U.S.C. 1333(a)(1); 64007

(6) States that the sale of the cigarettes is taxable under Chapter 5743. of the Revised Code. 64008
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(B) The merchant shall make a good faith effort to verify the information in the written statement obtained under division (A) of this section by using a federal or commercially available database that includes the date of birth or age of the individual placing the order. If the prospective customer's age cannot be verified using such a database, the prospective customer shall submit a photocopy or other image of a valid government-issued identification that includes the date of birth or age of the customer. For the purposes of this division, a valid government-issued identification includes a driver's license, state identification card, military identification, passport, 64010
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official naturalization or immigration document, or voter 64021
registration card. 64022

(C) The merchant shall receive payment for the delivery sale 64023
only by a check, credit card, or debit card issued in the name of 64024
the prospective purchaser. 64025

(D) The merchant shall submit, to each credit or debit card 64026
acquiring company with whom the merchant has credit or debit card 64027
sales, information in an appropriate form so that the word 64028
"cigarettes" will be printed on the purchaser's credit or debit 64029
card statement when cigarettes are purchased using a credit or 64030
debit card. 64031

Sec. 5743.73. (A)(1) A merchant that mails or ships 64032
cigarettes as part of a delivery sale shall do one of the 64033
following: 64034

(a) Collect and remit all applicable taxes imposed under 64035
Chapter 5743. of the Revised Code; or 64036

(b) Place a legible and conspicuous notice on the outside of 64037
the container in which the cigarettes are mailed or shipped, on 64038
the same side of the container as the address to which the 64039
container is being mailed or shipped, stating the following: "If 64040
these cigarettes have been shipped to you from a merchant located 64041
outside the state in which you reside, the merchant, pursuant to 64042
federal law, has reported information about the sale of these 64043
cigarettes, including your name and address, to your state tax 64044
collection agency. You are legally responsible for all applicable 64045
unpaid state taxes on these cigarettes." 64046

(2) In addition to complying with division (A)(1)(a) or (b) 64047
of this section, a merchant that mails or ships cigarettes as part 64048
of a delivery sale shall inform the customer in writing of the 64049
amount of taxes imposed under Chapter 5743. of the Revised Code. 64050

(B)(1) If a merchant mails or ships cigarettes as part of a delivery sale without engaging a third party mailing or shipping service to deliver the cigarettes, the merchant shall require the customer, or a person at least eighteen years of age who is designated by the customer, to sign to accept delivery and, if the customer or the customer's designee appears to be under twenty-seven years of age in the opinion of the merchant or the merchant's employee making the delivery, to present a valid driver's license or identification card issued under Chapter 4507. of the Revised Code.

(2) If a merchant mails or ships cigarettes as part of a delivery sale and engages a third party mailing or shipping service to deliver the cigarettes, the merchant shall do all of the following:

(a) Engage a mailing or shipping service that complies with division (C) of this section;

(b) Provide to the mailing or shipping service evidence of the merchant's compliance with division (A) of this section;

(c) Include the following statement in boldface type or upper case letters on the invoice or shipping document: "OHIO LAW PROHIBITS THE MAILING OR SHIPPING OF CIGARETTES TO A PERSON LESS THAN EIGHTEEN YEARS OF AGE AND REQUIRES PAYMENT OF ALL APPLICABLE TAXES."

(C) A mailing or shipping service engaged by a merchant to deliver cigarettes as part of a delivery sale shall require the customer, or a person at least eighteen years of age who is designated by the customer, to sign to accept delivery and, if the customer or the customer's designee appears to be under twenty-seven years of age in the opinion of the delivery agent or employee of the mailing or shipping service, to present a valid driver's license or identification card issued under Chapter 4507.

of the Revised Code.

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Sec. 5743.74. (A) Before a merchant commences to make
delivery sales of cigarettes, the merchant shall provide the tax
commissioner with a written statement containing the name of the
business under which the merchant conducts business, the
merchant's business mailing address, the address of the merchant's
principal place of business, and the address of each of the
merchant's places of business in this state.

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(B) A merchant that mails or ships cigarettes as part of a
delivery sale shall file with the tax commissioner a copy of the
invoice for each delivery sale to a customer in this state. The
copy shall be filed not later than the tenth day of the month that
immediately follows the month in which the delivery sale occurs.
The invoice shall include the following information:

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(1) The name and address of the person to whom the cigarettes
were delivered;

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(2) The brand name of the cigarettes delivered;

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(3) The quantity of cigarettes delivered.

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(C) A merchant that complies with 15 U.S.C. 376 shall be
considered to have satisfied the requirements of divisions (A) and
(B) of this section.

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Sec. 5743.75. (A)(1) The tax commissioner may impose a
penalty of not more than one thousand dollars on a merchant that
fails to obtain a signature and proof of identification of a
customer or the customer's designee as required under division
(B)(1) of section 5743.73 of the Revised Code, or that mails or
ships cigarettes to a person under eighteen years of age.

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(2) The tax commissioner may impose penalties, as follows, on
a merchant that mails or ships cigarettes as part of a delivery

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<u>sale without first complying with division (A) of section 5743.73</u>	64111
<u>of the Revised Code:</u>	64112
<u>(a) For a violation occurring more than five years after any</u>	64113
<u>previous violation, a penalty of not more than one thousand</u>	64114
<u>dollars;</u>	64115
<u>(b) For a second violation within a five-year period, a</u>	64116
<u>penalty of not less than one thousand dollars and not more than</u>	64117
<u>two thousand dollars;</u>	64118
<u>(c) For a third violation within a five-year period, a</u>	64119
<u>penalty of not less than two thousand five hundred dollars and not</u>	64120
<u>more than three thousand five hundred dollars;</u>	64121
<u>(d) For a fourth violation within a five-year period, a</u>	64122
<u>penalty of not less than four thousand dollars and not more than</u>	64123
<u>five thousand dollars;</u>	64124
<u>(e) For a fifth violation within a five-year period, a</u>	64125
<u>penalty of not less than five thousand five hundred dollars and</u>	64126
<u>not more than six thousand five hundred dollars;</u>	64127
<u>(f) For six or more violations within a five-year period, a</u>	64128
<u>penalty of ten thousand dollars.</u>	64129
<u>(3) The tax commissioner may impose a penalty of not more</u>	64130
<u>than one thousand dollars on a mailing or shipping service that is</u>	64131
<u>engaged by a merchant to deliver cigarettes as part of a delivery</u>	64132
<u>sale and that does either of the following:</u>	64133
<u>(a) Delivers such cigarettes and fails, before such delivery,</u>	64134
<u>to receive from a merchant evidence of the merchant's compliance</u>	64135
<u>with division (A) of section 5743.73 of the Revised Code; or</u>	64136
<u>(b) Delivers such cigarettes and fails to obtain a signature</u>	64137
<u>and proof of identification of a customer or the customer's</u>	64138
<u>designee as required under division (C) of section 5743.73 of the</u>	64139
<u>Revised Code.</u>	64140

(4) The tax commissioner may impose a penalty of not more than one thousand dollars on any person who receives cigarettes as part of a delivery sale and who signs another person's name to the statement required under division (A) of section 5743.72 of the Revised Code. 64141
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(B) Penalties imposed under this section shall be collected by assessment issued by the tax commissioner in the same manner provided for issuing assessments under section 5743.081 or 5743.082 of the Revised Code. The provisions of those sections relating to issuing assessments, providing notice of assessments, appealing assessments, the effect of assessments before and after the hearing and before and after the assessment is filed with the clerk of the court of common pleas, and all other provisions relating to procedure, authority, duties, liabilities, and privileges of the tax commissioner, the person assessed, the clerk of courts, or other public official apply to assessments for the collection of penalties imposed under this section. 64146
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(C) The proceeds of all penalties collected under this section shall be credited to the cigarette tax enforcement fund created under section 5743.15 of the Revised Code. 64158
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Sec. 5743.76. The tax commissioner may seize cigarettes sold in violation of section 5743.72, 5743.73, or 5743.74 of the Revised Code and cigarettes that any person attempts to sell in violation of any of those sections. Cigarettes seized under this section are forfeited to this state upon seizure. The tax commissioner shall provide for the destruction of all cigarettes seized and forfeited under this section. 64161
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Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning 64168
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as when used in a comparable context in the laws of the United 64171
States relating to federal income taxes or if not used in a 64172
comparable context in those laws, has the same meaning as in 64173
section 5733.40 of the Revised Code. Any reference in this chapter 64174
to the Internal Revenue Code includes other laws of the United 64175
States relating to federal income taxes. 64176

As used in this chapter: 64177

(A) "Adjusted gross income" or "Ohio adjusted gross income" 64178
means federal adjusted gross income, as defined and used in the 64179
Internal Revenue Code, adjusted as provided in this section: 64180

(1) Add interest or dividends on obligations or securities of 64181
any state or of any political subdivision or authority of any 64182
state, other than this state and its subdivisions and authorities. 64183

(2) Add interest or dividends on obligations of any 64184
authority, commission, instrumentality, territory, or possession 64185
of the United States to the extent that the interest or dividends 64186
are exempt from federal income taxes but not from state income 64187
taxes. 64188

(3) Deduct interest or dividends on obligations of the United 64189
States and its territories and possessions or of any authority, 64190
commission, or instrumentality of the United States to the extent 64191
that the interest or dividends are included in federal adjusted 64192
gross income but exempt from state income taxes under the laws of 64193
the United States. 64194

(4) Deduct disability and survivor's benefits to the extent 64195
included in federal adjusted gross income. 64196

(5) Deduct benefits under Title II of the Social Security Act 64197
and tier 1 railroad retirement benefits to the extent included in 64198
federal adjusted gross income under section 86 of the Internal 64199
Revenue Code. 64200

(6) In the case of a taxpayer who is a beneficiary of a trust 64201
that makes an accumulation distribution as defined in section 665 64202
of the Internal Revenue Code, add, for the beneficiary's taxable 64203
years beginning before 2002 ~~or after 2004~~, the portion, if any, of 64204
such distribution that does not exceed the undistributed net 64205
income of the trust for the three taxable years preceding the 64206
taxable year in which the distribution is made to the extent that 64207
the portion was not included in the trust's taxable income for any 64208
of the trust's taxable years beginning in 2002, ~~2003~~, or 2004 64209
thereafter. "Undistributed net income of a trust" means the 64210
taxable income of the trust increased by (a)(i) the additions to 64211
adjusted gross income required under division (A) of this section 64212
and (ii) the personal exemptions allowed to the trust pursuant to 64213
section 642(b) of the Internal Revenue Code, and decreased by 64214
(b)(i) the deductions to adjusted gross income required under 64215
division (A) of this section, (ii) the amount of federal income 64216
taxes attributable to such income, and (iii) the amount of taxable 64217
income that has been included in the adjusted gross income of a 64218
beneficiary by reason of a prior accumulation distribution. Any 64219
undistributed net income included in the adjusted gross income of 64220
a beneficiary shall reduce the undistributed net income of the 64221
trust commencing with the earliest years of the accumulation 64222
period. 64223

(7) Deduct the amount of wages and salaries, if any, not 64224
otherwise allowable as a deduction but that would have been 64225
allowable as a deduction in computing federal adjusted gross 64226
income for the taxable year, had the targeted jobs credit allowed 64227
and determined under sections 38, 51, and 52 of the Internal 64228
Revenue Code not been in effect. 64229

(8) Deduct any interest or interest equivalent on public 64230
obligations and purchase obligations to the extent that the 64231
interest or interest equivalent is included in federal adjusted 64232

gross income. 64233

(9) Add any loss or deduct any gain resulting from the sale, 64234
exchange, or other disposition of public obligations to the extent 64235
that the loss has been deducted or the gain has been included in 64236
computing federal adjusted gross income. 64237

(10) Deduct or add amounts, as provided under section 5747.70 64238
of the Revised Code, related to contributions to variable college 64239
savings program accounts made or tuition ~~credits~~ units purchased 64240
pursuant to Chapter 3334. of the Revised Code. 64241

(11)(a) Deduct, to the extent not otherwise allowable as a 64242
deduction or exclusion in computing federal or Ohio adjusted gross 64243
income for the taxable year, the amount the taxpayer paid during 64244
the taxable year for medical care insurance and qualified 64245
long-term care insurance for the taxpayer, the taxpayer's spouse, 64246
and dependents. No deduction for medical care insurance under 64247
division (A)(11) of this section shall be allowed either to any 64248
taxpayer who is eligible to participate in any subsidized health 64249
plan maintained by any employer of the taxpayer or of the 64250
taxpayer's spouse, or to any taxpayer who is entitled to, or on 64251
application would be entitled to, benefits under part A of Title 64252
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 64253
301, as amended. For the purposes of division (A)(11)(a) of this 64254
section, "subsidized health plan" means a health plan for which 64255
the employer pays any portion of the plan's cost. The deduction 64256
allowed under division (A)(11)(a) of this section shall be the net 64257
of any related premium refunds, related premium reimbursements, or 64258
related insurance premium dividends received during the taxable 64259
year. 64260

(b) Deduct, to the extent not otherwise deducted or excluded 64261
in computing federal or Ohio adjusted gross income during the 64262
taxable year, the amount the taxpayer paid during the taxable 64263

year, not compensated for by any insurance or otherwise, for 64264
medical care of the taxpayer, the taxpayer's spouse, and 64265
dependents, to the extent the expenses exceed seven and one-half 64266
per cent of the taxpayer's federal adjusted gross income. 64267

(c) For purposes of division (A)(11) of this section, 64268
"medical care" has the meaning given in section 213 of the 64269
Internal Revenue Code, subject to the special rules, limitations, 64270
and exclusions set forth therein, and "qualified long-term care" 64271
has the same meaning given in section 7702(B)(b) of the Internal 64272
Revenue Code. 64273

(12)(a) Deduct any amount included in federal adjusted gross 64274
income solely because the amount represents a reimbursement or 64275
refund of expenses that in any year the taxpayer had deducted as 64276
an itemized deduction pursuant to section 63 of the Internal 64277
Revenue Code and applicable United States department of the 64278
treasury regulations. The deduction otherwise allowed under 64279
division (A)(12)(a) of this section shall be reduced to the extent 64280
the reimbursement is attributable to an amount the taxpayer 64281
deducted under this section in any taxable year. 64282

(b) Add any amount not otherwise included in Ohio adjusted 64283
gross income for any taxable year to the extent that the amount is 64284
attributable to the recovery during the taxable year of any amount 64285
deducted or excluded in computing federal or Ohio adjusted gross 64286
income in any taxable year. 64287

(13) Deduct any portion of the deduction described in section 64288
1341(a)(2) of the Internal Revenue Code, for repaying previously 64289
reported income received under a claim of right, that meets both 64290
of the following requirements: 64291

(a) It is allowable for repayment of an item that was 64292
included in the taxpayer's adjusted gross income for a prior 64293
taxable year and did not qualify for a credit under division (A) 64294

or (B) of section 5747.05 of the Revised Code for that year;	64295
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	64296 64297
(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.	64298 64299 64300 64301 64302 64303 64304
(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;	64305 64306 64307 64308 64309 64310
(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.	64311 64312 64313
(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:	64314 64315 64316
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	64317 64318 64319 64320
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	64321 64322 64323
(17) Deduct the amount contributed by the taxpayer to an	64324

individual development account program established by a county 64325
department of job and family services pursuant to sections 329.11 64326
to 329.14 of the Revised Code for the purpose of matching funds 64327
deposited by program participants. On request of the tax 64328
commissioner, the taxpayer shall provide any information that, in 64329
the tax commissioner's opinion, is necessary to establish the 64330
amount deducted under division (A)(17) of this section. 64331

(18) Beginning in taxable year 2001 but not for any taxable 64332
year beginning after December 31, 2005, if the taxpayer is married 64333
and files a joint return and the combined federal adjusted gross 64334
income of the taxpayer and the taxpayer's spouse for the taxable 64335
year does not exceed one hundred thousand dollars, or if the 64336
taxpayer is single and has a federal adjusted gross income for the 64337
taxable year not exceeding fifty thousand dollars, deduct amounts 64338
paid during the taxable year for qualified tuition and fees paid 64339
to an eligible institution for the taxpayer, the taxpayer's 64340
spouse, or any dependent of the taxpayer, who is a resident of 64341
this state and is enrolled in or attending a program that 64342
culminates in a degree or diploma at an eligible institution. The 64343
deduction may be claimed only to the extent that qualified tuition 64344
and fees are not otherwise deducted or excluded for any taxable 64345
year from federal or Ohio adjusted gross income. The deduction may 64346
not be claimed for educational expenses for which the taxpayer 64347
claims a credit under section 5747.27 of the Revised Code. 64348

(19) Add any reimbursement received during the taxable year 64349
of any amount the taxpayer deducted under division (A)(18) of this 64350
section in any previous taxable year to the extent the amount is 64351
not otherwise included in Ohio adjusted gross income. 64352

(20)(a)(i) Add five-sixths of the amount of depreciation 64353
expense allowed by subsection (k) of section 168 of the Internal 64354
Revenue Code, including the taxpayer's proportionate or 64355
distributive share of the amount of depreciation expense allowed 64356

by that subsection to a pass-through entity in which the taxpayer 64357
has a direct or indirect ownership interest. 64358

(ii) Add five-sixths of the amount of qualifying section 179 64359
depreciation expense, including a person's proportionate or 64360
distributive share of the amount of qualifying section 179 64361
depreciation expense allowed to any pass-through entity in which 64362
the person has a direct or indirect ownership. For the purposes of 64363
this division, "qualifying section 179 depreciation expense" means 64364
the difference between (I) the amount of depreciation expense 64365
directly or indirectly allowed to the taxpayer under section 179 64366
of the Internal Revenue Code, and (II) the amount of depreciation 64367
expense directly or indirectly allowed to the taxpayer under 64368
section 179 of the Internal Revenue Code as that section existed 64369
on December 31, 2002. 64370

The tax commissioner, under procedures established by the 64371
commissioner, may waive the add-backs related to a pass-through 64372
entity if the taxpayer owns, directly or indirectly, less than 64373
five per cent of the pass-through entity. 64374

(b) Nothing in division (A)(20) of this section shall be 64375
construed to adjust or modify the adjusted basis of any asset. 64376

(c) To the extent the add-back required under division 64377
(A)(20)(a) of this section is attributable to property generating 64378
nonbusiness income or loss allocated under section 5747.20 of the 64379
Revised Code, the add-back shall be situated to the same location 64380
as the nonbusiness income or loss generated by the property for 64381
the purpose of determining the credit under division (A) of 64382
section 5747.05 of the Revised Code. Otherwise, the add-back shall 64383
be apportioned, subject to one or more of the four alternative 64384
methods of apportionment enumerated in section 5747.21 of the 64385
Revised Code. 64386

(d) For the purposes of division (A) of this section, net 64387

operating loss carryback and carryforward shall not include 64388
five-sixths of the allowance of any net operating loss deduction 64389
carryback or carryforward to the taxable year to the extent such 64390
loss resulted from depreciation allowed by section 168(k) of the 64391
Internal Revenue Code and by the qualifying section 179 64392
depreciation expense amount. 64393

(21)(a) If the taxpayer was required to add an amount under 64394
division (A)(20)(a) of this section for a taxable year, deduct 64395
one-fifth of the amount so added for each of the five succeeding 64396
taxable years. 64397

(b) If the amount deducted under division (A)(21)(a) of this 64398
section is attributable to an add-back allocated under division 64399
(A)(20)(c) of this section, the amount deducted shall be sitused 64400
to the same location. Otherwise, the add-back shall be apportioned 64401
using the apportionment factors for the taxable year in which the 64402
deduction is taken, subject to one or more of the four alternative 64403
methods of apportionment enumerated in section 5747.21 of the 64404
Revised Code. 64405

(c) No deduction is available under division (A)(21)(a) of 64406
this section with regard to any depreciation allowed by section 64407
168(k) of the Internal Revenue Code and by the qualifying section 64408
179 depreciation expense amount to the extent that such 64409
depreciation resulted in or increased a federal net operating loss 64410
carryback or carryforward to a taxable year to which division 64411
(A)(20)(d) of this section does not apply. 64412

(B) "Business income" means income, including gain or loss, 64413
arising from transactions, activities, and sources in the regular 64414
course of a trade or business and includes income, gain, or loss 64415
from real property, tangible property, and intangible property if 64416
the acquisition, rental, management, and disposition of the 64417
property constitute integral parts of the regular course of a 64418

trade or business operation. "Business income" includes income, 64419
including gain or loss, from a partial or complete liquidation of 64420
a business, including, but not limited to, gain or loss from the 64421
sale or other disposition of goodwill. 64422

(C) "Nonbusiness income" means all income other than business 64423
income and may include, but is not limited to, compensation, rents 64424
and royalties from real or tangible personal property, capital 64425
gains, interest, dividends and distributions, patent or copyright 64426
royalties, or lottery winnings, prizes, and awards. 64427

(D) "Compensation" means any form of remuneration paid to an 64428
employee for personal services. 64429

(E) "Fiduciary" means a guardian, trustee, executor, 64430
administrator, receiver, conservator, or any other person acting 64431
in any fiduciary capacity for any individual, trust, or estate. 64432

(F) "Fiscal year" means an accounting period of twelve months 64433
ending on the last day of any month other than December. 64434

(G) "Individual" means any natural person. 64435

(H) "Internal Revenue Code" means the "Internal Revenue Code 64436
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 64437

(I) "Resident" means any of the following, provided that 64438
division (I)(3) of this section applies only to taxable years of a 64439
trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter: 64440

(1) An individual who is domiciled in this state, subject to 64441
section 5747.24 of the Revised Code; 64442

(2) The estate of a decedent who at the time of death was 64443
domiciled in this state. The domicile tests of section 5747.24 of 64444
the Revised Code and any election under section 5747.25 of the 64445
Revised Code are not controlling for purposes of division (I)(2) 64446
of this section. 64447

(3) A trust that, in whole or part, resides in this state. If 64448

only part of a trust resides in this state, the trust is a
resident only with respect to that part.

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For the purposes of division (I)(3) of this section:

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(a) A trust resides in this state for the trust's current
taxable year to the extent, as described in division (I)(3)(d) of
this section, that the trust consists directly or indirectly, in
whole or in part, of assets, net of any related liabilities, that
were transferred, or caused to be transferred, directly or
indirectly, to the trust by any of the following:

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(i) A person, a court, or a governmental entity or
instrumentality on account of the death of a decedent, but only if
the trust is described in division (I)(3)(e)(i) or (ii) of this
section;

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(ii) A person who was domiciled in this state for the
purposes of this chapter when the person directly or indirectly
transferred assets to an irrevocable trust, but only if at least
one of the trust's qualifying beneficiaries is domiciled in this
state for the purposes of this chapter during all or some portion
of the trust's current taxable year;

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(iii) A person who was domiciled in this state for the
purposes of this chapter when the trust document or instrument or
part of the trust document or instrument became irrevocable, but
only if at least one of the trust's qualifying beneficiaries is a
resident domiciled in this state for the purposes of this chapter
during all or some portion of the trust's current taxable year. If
a trust document or instrument became irrevocable upon the death
of a person who at the time of death was domiciled in this state
for purposes of this chapter, that person is a person described in
division (I)(3)(a)(iii) of this section.

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(b) A trust is irrevocable to the extent that the transferor
is not considered to be the owner of the net assets of the trust

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under sections 671 to 678 of the Internal Revenue Code. 64480

(c) With respect to a trust other than a charitable lead 64481
trust, "qualifying beneficiary" has the same meaning as "potential 64482
current beneficiary" as defined in section 1361(e)(2) of the 64483
Internal Revenue Code, and with respect to a charitable lead trust 64484
"qualifying beneficiary" is any current, or future, ~~or contingent~~ 64485
beneficiary, but with respect to any trust "qualifying 64486
beneficiary" excludes a person or a governmental entity or 64487
instrumentality to any of which a contribution would qualify for 64488
the charitable deduction under section 170 of the Internal Revenue 64489
Code. 64490

(d) For the purposes of division (I)(3)(a) of this section, 64491
the extent to which a trust consists directly or indirectly, in 64492
whole or in part, of assets, net of any related liabilities, that 64493
were transferred directly or indirectly, in whole or part, to the 64494
trust by any of the sources enumerated in that division shall be 64495
ascertained by multiplying the fair market value of the trust's 64496
assets, net of related liabilities, by the qualifying ratio, which 64497
shall be computed as follows: 64498

(i) The first time the trust receives assets, the numerator 64499
of the qualifying ratio is the fair market value of those assets 64500
at that time, net of any related liabilities, from sources 64501
enumerated in division (I)(3)(a) of this section. The denominator 64502
of the qualifying ratio is the fair market value of all the 64503
trust's assets at that time, net of any related liabilities. 64504

(ii) Each subsequent time the trust receives assets, a 64505
revised qualifying ratio shall be computed. The numerator of the 64506
revised qualifying ratio is the sum of (1) the fair market value 64507
of the trust's assets immediately prior to the subsequent 64508
transfer, net of any related liabilities, multiplied by the 64509
qualifying ratio last computed without regard to the subsequent 64510

transfer, and (2) the fair market value of the subsequently
transferred assets at the time transferred, net of any related
liabilities, from sources enumerated in division (I)(3)(a) of this
section. The denominator of the revised qualifying ratio is the
fair market value of all the trust's assets immediately after the
subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of
the sources enumerated in division (I)(3)(a) of this section shall
be ascertained without regard to the domicile of the trust's
beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this
section:

(i) A trust is described in division (I)(3)(e)(i) of this
section if the trust is a testamentary trust and the testator of
that testamentary trust was domiciled in this state at the time of
the testator's death for purposes of the taxes levied under
Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this
section if the transfer is a qualifying transfer described in any
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an
irrevocable inter vivos trust, and at least one of the trust's
qualifying beneficiaries is domiciled in this state for purposes
of this chapter during all or some portion of the trust's current
taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this
section, a "qualifying transfer" is a transfer of assets, net of
any related liabilities, directly or indirectly to a trust, if the
transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent
before the decedent's death and while the decedent was domiciled
in this state for the purposes of this chapter, and, prior to the

death of the decedent, the trust became irrevocable while the 64542
decedent was domiciled in this state for the purposes of this 64543
chapter. 64544

(ii) The transfer is made to a trust to which the decedent, 64545
prior to the decedent's death, had directly or indirectly 64546
transferred assets, net of any related liabilities, while the 64547
decedent was domiciled in this state for the purposes of this 64548
chapter, and prior to the death of the decedent the trust became 64549
irrevocable while the decedent was domiciled in this state for the 64550
purposes of this chapter. 64551

(iii) The transfer is made on account of a contractual 64552
relationship existing directly or indirectly between the 64553
transferor and either the decedent or the estate of the decedent 64554
at any time prior to the date of the decedent's death, and the 64555
decedent was domiciled in this state at the time of death for 64556
purposes of the taxes levied under Chapter 5731. of the Revised 64557
Code. 64558

(iv) The transfer is made to a trust on account of a 64559
contractual relationship existing directly or indirectly between 64560
the transferor and another person who at the time of the 64561
decedent's death was domiciled in this state for purposes of this 64562
chapter. 64563

(v) The transfer is made to a trust on account of the will of 64564
a testator. 64565

(vi) The transfer is made to a trust created by or caused to 64566
be created by a court, and the trust was directly or indirectly 64567
created in connection with or as a result of the death of an 64568
individual who, for purposes of the taxes levied under Chapter 64569
5731. of the Revised Code, was domiciled in this state at the time 64570
of the individual's death. 64571

(g) The tax commissioner may adopt rules to ascertain the 64572

part of a trust residing in this state. 64573

(J) "Nonresident" means an individual or estate that is not a 64574
resident. An individual who is a resident for only part of a 64575
taxable year is a nonresident for the remainder of that taxable 64576
year. 64577

(K) "Pass-through entity" has the same meaning as in section 64578
5733.04 of the Revised Code. 64579

(L) "Return" means the notifications and reports required to 64580
be filed pursuant to this chapter for the purpose of reporting the 64581
tax due and includes declarations of estimated tax when so 64582
required. 64583

(M) "Taxable year" means the calendar year or the taxpayer's 64584
fiscal year ending during the calendar year, or fractional part 64585
thereof, upon which the adjusted gross income is calculated 64586
pursuant to this chapter. 64587

(N) "Taxpayer" means any person subject to the tax imposed by 64588
section 5747.02 of the Revised Code or any pass-through entity 64589
that makes the election under division (D) of section 5747.08 of 64590
the Revised Code. 64591

(O) "Dependents" means dependents as defined in the Internal 64592
Revenue Code and as claimed in the taxpayer's federal income tax 64593
return for the taxable year or which the taxpayer would have been 64594
permitted to claim had the taxpayer filed a federal income tax 64595
return. 64596

(P) "Principal county of employment" means, in the case of a 64597
nonresident, the county within the state in which a taxpayer 64598
performs services for an employer or, if those services are 64599
performed in more than one county, the county in which the major 64600
portion of the services are performed. 64601

(Q) As used in sections 5747.50 to 5747.55 of the Revised 64602

Code: 64603

(1) "Subdivision" means any county, municipal corporation, 64604
park district, or township. 64605

(2) "Essential local government purposes" includes all 64606
functions that any subdivision is required by general law to 64607
exercise, including like functions that are exercised under a 64608
charter adopted pursuant to the Ohio Constitution. 64609

(R) "Overpayment" means any amount already paid that exceeds 64610
the figure determined to be the correct amount of the tax. 64611

(S) "Taxable income" or "Ohio taxable income" applies only to 64612
estates and trusts, and means federal taxable income, as defined 64613
and used in the Internal Revenue Code, adjusted as follows: 64614

(1) Add interest or dividends, net of ordinary, necessary, 64615
and reasonable expenses not deducted in computing federal taxable 64616
income, on obligations or securities of any state or of any 64617
political subdivision or authority of any state, other than this 64618
state and its subdivisions and authorities, but only to the extent 64619
that such net amount is not otherwise includible in Ohio taxable 64620
income and is described in either division (S)(1)(a) or (b) of 64621
this section: 64622

(a) The net amount is not attributable to the S portion of an 64623
electing small business trust and has not been distributed to 64624
beneficiaries for the taxable year; 64625

(b) The net amount is attributable to the S portion of an 64626
electing small business trust for the taxable year. 64627

(2) Add interest or dividends, net of ordinary, necessary, 64628
and reasonable expenses not deducted in computing federal taxable 64629
income, on obligations of any authority, commission, 64630
instrumentality, territory, or possession of the United States to 64631
the extent that the interest or dividends are exempt from federal 64632

income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent

that such loss has been deducted or such gain has been included in
computing either federal taxable income or income of the S portion
of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add
any amount deducted by the taxpayer on both its Ohio estate tax
return pursuant to section 5731.14 of the Revised Code, and on its
federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income
solely because the amount represents a reimbursement or refund of
expenses that in a previous year the decedent had deducted as an
itemized deduction pursuant to section 63 of the Internal Revenue
Code and applicable treasury regulations. The deduction otherwise
allowed under division (S)(9)(a) of this section shall be reduced
to the extent the reimbursement is attributable to an amount the
taxpayer or decedent deducted under this section in any taxable
year.

(b) Add any amount not otherwise included in Ohio taxable
income for any taxable year to the extent that the amount is
attributable to the recovery during the taxable year of any amount
deducted or excluded in computing federal or Ohio taxable income
in any taxable year, but only to the extent such amount has not
been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section
1341(a)(2) of the Internal Revenue Code, for repaying previously
reported income received under a claim of right, that meets both
of the following requirements:

(a) It is allowable for repayment of an item that was
included in the taxpayer's taxable income or the decedent's
adjusted gross income for a prior taxable year and did not qualify
for a credit under division (A) or (B) of section 5747.05 of the
Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable
income or the decedent's adjusted gross income for the current or
any other taxable year.

(11) Add any amount claimed as a credit under section
5747.059 of the Revised Code to the extent that the amount
satisfies either of the following:

(a) The amount was deducted or excluded from the computation
of the taxpayer's federal taxable income as required to be
reported for the taxpayer's taxable year under the Internal
Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's
federal taxable income as required to be reported for any of the
taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in
computing federal taxable income, that a trust is required to
report as farm income on its federal income tax return, but only
if the assets of the trust include at least ten acres of land
satisfying the definition of "land devoted exclusively to
agricultural use" under section 5713.30 of the Revised Code,
regardless of whether the land is valued for tax purposes as such
land under sections 5713.30 to 5713.38 of the Revised Code. If the
trust is a pass-through entity investor, section 5747.231 of the
Revised Code applies in ascertaining if the trust is eligible to
claim the deduction provided by division (S)(12) of this section
in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an
electing small business trust, the deduction provided by division
(S)(12) of this section is allowed only to the extent that the
trust has not distributed such farm income. Division (S)(12) of
this section applies only to taxable years of a trust beginning in
2002, ~~2003~~, or 2004 thereafter.

(13) Add the net amount of income described in section 641(c) 64726
of the Internal Revenue Code to the extent that amount is not 64727
included in federal taxable income. 64728

(14) Add or deduct the amount the taxpayer would be required 64729
to add or deduct under division (A)(20) or (21) of this section if 64730
the taxpayer's Ohio taxable income were computed in the same 64731
manner as an individual's Ohio adjusted gross income is computed 64732
under this section. In the case of a trust, division (S)(14) of 64733
this section applies only to any of the trust's taxable years 64734
beginning in 2002,~~2003~~, or ~~2004~~ thereafter. 64735

(T) "School district income" and "school district income tax" 64736
have the same meanings as in section 5748.01 of the Revised Code. 64737

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 64738
of this section, "public obligations," "purchase obligations," and 64739
"interest or interest equivalent" have the same meanings as in 64740
section 5709.76 of the Revised Code. 64741

(V) "Limited liability company" means any limited liability 64742
company formed under Chapter 1705. of the Revised Code or under 64743
the laws of any other state. 64744

(W) "Pass-through entity investor" means any person who, 64745
during any portion of a taxable year of a pass-through entity, is 64746
a partner, member, shareholder, or equity investor in that 64747
pass-through entity. 64748

(X) "Banking day" has the same meaning as in section 1304.01 64749
of the Revised Code. 64750

(Y) "Month" means a calendar month. 64751

(Z) "Quarter" means the first three months, the second three 64752
months, the third three months, or the last three months of the 64753
taxpayer's taxable year. 64754

(AA)(1) "Eligible institution" means a state university or 64755

state institution of higher education as defined in section 64756
3345.011 of the Revised Code, or a private, nonprofit college, 64757
university, or other post-secondary institution located in this 64758
state that possesses a certificate of authorization issued by the 64759
Ohio board of regents pursuant to Chapter 1713. of the Revised 64760
Code or a certificate of registration issued by the state board of 64761
career colleges and schools under Chapter 3332. of the Revised 64762
Code. 64763

(2) "Qualified tuition and fees" means tuition and fees 64764
imposed by an eligible institution as a condition of enrollment or 64765
attendance, not exceeding two thousand five hundred dollars in 64766
each of the individual's first two years of post-secondary 64767
education. If the individual is a part-time student, "qualified 64768
tuition and fees" includes tuition and fees paid for the academic 64769
equivalent of the first two years of post-secondary education 64770
during a maximum of five taxable years, not exceeding a total of 64771
five thousand dollars. "Qualified tuition and fees" does not 64772
include: 64773

(a) Expenses for any course or activity involving sports, 64774
games, or hobbies unless the course or activity is part of the 64775
individual's degree or diploma program; 64776

(b) The cost of books, room and board, student activity fees, 64777
athletic fees, insurance expenses, or other expenses unrelated to 64778
the individual's academic course of instruction; 64779

(c) Tuition, fees, or other expenses paid or reimbursed 64780
through an employer, scholarship, grant in aid, or other 64781
educational benefit program. 64782

(BB)(1) "Modified business income" means the business income 64783
included in a trust's Ohio taxable income after such taxable 64784
income is first reduced by the qualifying trust amount, if any. 64785

(2) "Qualifying trust amount" of a trust means capital gains 64786

and losses from the sale, exchange, or other disposition of equity 64787
or ownership interests in, or debt obligations of, a qualifying 64788
investee to the extent included in the trust's Ohio taxable 64789
income, but only if the following requirements are satisfied: 64790

(a) The book value of the qualifying investee's physical 64791
assets in this state and everywhere, as of the last day of the 64792
qualifying investee's fiscal or calendar year ending immediately 64793
prior to the date on which the trust recognizes the gain or loss, 64794
is available to the trust. 64795

(b) The requirements of section 5747.011 of the Revised Code 64796
are satisfied for the trust's taxable year in which the trust 64797
recognizes the gain or loss. 64798

Any gain or loss that is not a qualifying trust amount is 64799
modified business income, qualifying investment income, or 64800
modified nonbusiness income, as the case may be. 64801

(3) "Modified nonbusiness income" means a trust's Ohio 64802
taxable income other than modified business income, other than the 64803
qualifying trust amount, and other than qualifying investment 64804
income, as defined in section 5747.012 of the Revised Code, to the 64805
extent such qualifying investment income is not otherwise part of 64806
modified business income. 64807

(4) "Modified Ohio taxable income" applies only to trusts, 64808
and means the sum of the amounts described in divisions (BB)(4)(a) 64809
to (c) of this section: 64810

(a) The fraction, calculated under section 5747.013, and 64811
applying section 5747.231 of the Revised Code, multiplied by the 64812
sum of the following amounts: 64813

(i) The trust's modified business income; 64814

(ii) The trust's qualifying investment income, as defined in 64815
section 5747.012 of the Revised Code, but only to the extent the 64816

qualifying investment income does not otherwise constitute 64817
modified business income and does not otherwise constitute a 64818
qualifying trust amount. 64819

(b) The qualifying trust amount multiplied by a fraction, the 64820
numerator of which is the sum of the book value of the qualifying 64821
investee's physical assets in this state on the last day of the 64822
qualifying investee's fiscal or calendar year ending immediately 64823
prior to the day on which the trust recognizes the qualifying 64824
trust amount, and the denominator of which is the sum of the book 64825
value of the qualifying investee's total physical assets 64826
everywhere on the last day of the qualifying investee's fiscal or 64827
calendar year ending immediately prior to the day on which the 64828
trust recognizes the qualifying trust amount. If, for a taxable 64829
year, the trust recognizes a qualifying trust amount with respect 64830
to more than one qualifying investee, the amount described in 64831
division (BB)(4)(b) of this section shall equal the sum of the 64832
products so computed for each such qualifying investee. 64833

(c)(i) With respect to a trust or portion of a trust that is 64834
a resident as ascertained in accordance with division (I)(3)(d) of 64835
this section, its modified nonbusiness income. 64836

(ii) With respect to a trust or portion of a trust that is 64837
not a resident as ascertained in accordance with division 64838
(I)(3)(d) of this section, the amount of its modified nonbusiness 64839
income satisfying the descriptions in divisions (B)(2) to (5) of 64840
section 5747.20 of the Revised Code. 64841

If the allocation and apportionment of a trust's income under 64842
divisions (BB)(4)(a) and (c) of this section do not fairly 64843
represent the modified Ohio taxable income of the trust in this 64844
state, the alternative methods described in division (C) of 64845
section 5747.21 of the Revised Code may be applied in the manner 64846
and to the same extent provided in that section. 64847

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through

entity directly or indirectly owning any equity of another 64880
pass-through entity, and "lower level pass-through entity" means 64881
that other pass-through entity. 64882

An upper level pass-through entity, whether or not it is also 64883
a qualifying investee, is deemed to own, on the last day of the 64884
upper level pass-through entity's calendar or fiscal year, the 64885
proportionate share of the lower level pass-through entity's 64886
physical assets that the lower level pass-through entity directly 64887
or indirectly owns on the last day of the lower level pass-through 64888
entity's calendar or fiscal year ending within or with the last 64889
day of the upper level pass-through entity's fiscal or calendar 64890
year. If the upper level pass-through entity directly and 64891
indirectly owns less than fifty per cent of the equity of the 64892
lower level pass-through entity on each day of the upper level 64893
pass-through entity's calendar or fiscal year in which or with 64894
which ends the calendar or fiscal year of the lower level 64895
pass-through entity and if, based upon clear and convincing 64896
evidence, complete information about the location and cost of the 64897
physical assets of the lower pass-through entity is not available 64898
to the upper level pass-through entity, then solely for purposes 64899
of ascertaining if a gain or loss constitutes a qualifying trust 64900
amount, the upper level pass-through entity shall be deemed as 64901
owning no equity of the lower level pass-through entity for each 64902
day during the upper level pass-through entity's calendar or 64903
fiscal year in which or with which ends the lower level 64904
pass-through entity's calendar or fiscal year. Nothing in division 64905
(BB)(5)(a)(iii) of this section shall be construed to provide for 64906
any deduction or exclusion in computing any trust's Ohio taxable 64907
income. 64908

(b) With respect to a trust that is not a resident for the 64909
taxable year and with respect to a part of a trust that is not a 64910
resident for the taxable year, "qualifying investee" for that 64911

taxable year does not include a C corporation if both of the 64912
following apply: 64913

(i) During the taxable year the trust or part of the trust 64914
recognizes a gain or loss from the sale, exchange, or other 64915
disposition of equity or ownership interests in, or debt 64916
obligations of, the C corporation. 64917

(ii) Such gain or loss constitutes nonbusiness income. 64918

(6) "Available" means information is such that a person is 64919
able to learn of the information by the due date plus extensions, 64920
if any, for filing the return for the taxable year in which the 64921
trust recognizes the gain or loss. 64922

(CC) "Qualifying controlled group" has the same meaning as in 64923
section 5733.04 of the Revised Code. 64924

(DD) "Related member" has the same meaning as in section 64925
5733.042 of the Revised Code. 64926

~~(EE) Any term used in this chapter that is not otherwise 64927
defined in this section and that is not used in a comparable 64928
context in the Internal Revenue Code and other statutes of the 64929
United States relating to federal income taxes has the same 64930
meaning as in section 5733.40 of the Revised Code. 64931~~

Sec. 5747.02. (A) For the purpose of providing revenue for 64932
the support of schools and local government functions, to provide 64933
relief to property taxpayers, to provide revenue for the general 64934
revenue fund, and to meet the expenses of administering the tax 64935
levied by this chapter, there is hereby levied on every 64936
individual, trust, and estate residing in or earning or receiving 64937
income in this state, on every individual, trust, and estate 64938
earning or receiving lottery winnings, prizes, or awards pursuant 64939
to Chapter 3770. of the Revised Code, and on every individual, 64940
trust, and estate otherwise having nexus with or in this state 64941

under the Constitution of the United States, an annual tax 64942
measured in the case of individuals by Ohio adjusted gross income 64943
less an exemption for the taxpayer, the taxpayer's spouse, and 64944
each dependent as provided in section 5747.025 of the Revised 64945
Code; measured in the case of trusts by modified Ohio taxable 64946
income under division (D) of this section; and measured in the 64947
case of estates by Ohio taxable income. The tax imposed by this 64948
section on the balance thus obtained is hereby levied as follows: 64949

(1) For taxable years beginning in 2004: 64950

OHIO ADJUSTED GROSS INCOME LESS 64951

EXEMPTIONS (INDIVIDUALS)

OR 64952

MODIFIED OHIO 64953

TAXABLE INCOME (TRUSTS) 64954

OR 64955

OHIO TAXABLE INCOME (ESTATES) TAX 64956

\$5,000 or less .743% 64957

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 64958
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 64959
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 64960
than \$20,000 amount in excess of \$15,000

More than \$20,000 but not more \$445.80 plus 4.457% of the 64961
than \$40,000 amount in excess of \$20,000

More than \$40,000 but not more \$1,337.20 plus 5.201% of the 64962
than \$80,000 amount in excess of \$40,000

More than \$80,000 but not more \$3,417.60 plus 5.943% of the 64963
than \$100,000 amount in excess of \$80,000

More than \$100,000 but not more \$4,606.20 plus 6.9% of the 64964
than \$200,000 amount in excess of \$100,000

More than \$200,000 \$11,506.20 plus 7.5% of the 64965
amount in excess of \$200,000

<u>(2) For taxable years beginning in 2005:</u>		64966
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		64967
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		64968
<u>MODIFIED OHIO</u>		64969
<u>TAXABLE INCOME (TRUSTS)</u>		64970
<u>OR</u>		64971
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	64972
<u>\$5,000 or less</u>	<u>.712%</u>	64973
<u>More than \$5,000 but not more</u>	<u>\$35.60 plus 1.424% of the amount</u>	64974
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$106.80 plus 2.847% of the</u>	64975
<u>than \$15,000</u>	<u>amount in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$249.15 plus 3.559% of the</u>	64976
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$427.10 plus 4.27% of the amount</u>	64977
<u>than \$40,000</u>	<u>in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,281.10 plus 4.983% of the</u>	64978
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$3,274.30 plus 5.693% of the</u>	64979
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$4,412.90 plus 6.61% of the</u>	64980
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$11,022.90 plus 7.185% of the</u>	64981
	<u>amount in excess of \$200,000</u>	
<u>(3) For taxable years beginning in 2006:</u>		64982
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		64983
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		64984
<u>MODIFIED OHIO</u>		64985
<u>TAXABLE INCOME (TRUSTS)</u>		64986
<u>OR</u>		64987

<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	64988
<u>\$5,000 or less</u>	<u>.681%</u>	64989
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$34.05 plus 1.361% of the amount in excess of \$5,000</u>	64990
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$102.10 plus 2.722% of the amount in excess of \$10,000</u>	64991
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$238.20 plus 3.403% of the amount in excess of \$15,000</u>	64992
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$408.35 plus 4.083% of the amount in excess of \$20,000</u>	64993
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,224.95 plus 4.764% of the amount in excess of \$40,000</u>	64994
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,130.55 plus 5.444% of the amount in excess of \$80,000</u>	64995
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,219.35 plus 6.32% of the amount in excess of \$100,000</u>	64996
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</u>	64997
<u>(4) For taxable years beginning in 2007:</u>		64998
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		64999
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		65000
<u>MODIFIED OHIO</u>		65001
<u>TAXABLE INCOME (TRUSTS)</u>		65002
<u>OR</u>		65003
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	65004
<u>\$5,000 or less</u>	<u>.649%</u>	65005
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$32.45 plus 1.299% of the amount in excess of \$5,000</u>	65006
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$97.40 plus 2.598% of the amount in excess of \$10,000</u>	65007
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$227.30 plus 3.247% of the amount in excess of \$15,000</u>	65008

<u>More than \$20,000 but not more than \$40,000</u>	<u>\$389.65 plus 3.895% of the amount in excess of \$20,000</u>	65009
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</u>	65010
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</u>	65011
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</u>	65012
<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u>	65013
<u>(5) For taxable years beginning in 2008:</u>		65014
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		65015
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		65016
<u>MODIFIED OHIO</u>		65017
<u>TAXABLE INCOME (TRUSTS)</u>		65018
<u>OR</u>		65019
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	65020
<u>\$5,000 or less</u>	<u>.618%</u>	65021
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$30.90 plus 1.236% of the amount in excess of \$5,000</u>	65022
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$92.70 plus 2.473% of the amount in excess of \$10,000</u>	65023
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$216.35 plus 3.091% of the amount in excess of \$15,000</u>	65024
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$370.90 plus 3.708% of the amount in excess of \$20,000</u>	65025
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,112.50 plus 4.327% of the amount in excess of \$40,000</u>	65026
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,843.30 plus 4.945% of the amount in excess of \$80,000</u>	65027
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,832.30 plus 5.741% of the amount in excess of \$100,000</u>	65028

<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u>	65029
<u>(6) For taxable years beginning in 2009 or thereafter:</u>		65030
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		65031
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		65032
<u>MODIFIED OHIO</u>		65033
<u>TAXABLE INCOME (TRUSTS)</u>		65034
<u>OR</u>		65035
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	65036
<u>\$5,000 or less</u>	<u>.587%</u>	65037
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$29.35 plus 1.174% of the amount in excess of \$5,000</u>	65038
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$88.05 plus 2.348% of the amount in excess of \$10,000</u>	65039
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$205.45 plus 2.935% of the amount in excess of \$15,000</u>	65040
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$352.20 plus 3.521% of the amount in excess of \$20,000</u>	65041
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,056.40 plus 4.109% of the amount in excess of \$40,000</u>	65042
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,700.00 plus 4.695% of the amount in excess of \$80,000</u>	65043
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,639.00 plus 5.451% of the amount in excess of \$100,000</u>	65044
<u>More than \$200,000</u>	<u>\$9,090.00 plus 5.925% of the amount in excess of \$200,000</u>	65045
In July of each year, beginning in 2005 <u>2010</u> , 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		65046 65047 65048 65049 65050

resulting from the adjustment under this division in the preceding 65051
year, adding the resulting product to the corresponding income 65052
amount resulting from the adjustment in the preceding year, and 65053
rounding the resulting sum to the nearest multiple of fifty 65054
dollars. The tax commissioner also shall recompute each of the tax 65055
dollar amounts to the extent necessary to reflect the adjustment 65056
of the income amounts. The rates of taxation shall not be 65057
adjusted. 65058

The adjusted amounts apply to taxable years beginning in the 65059
calendar year in which the adjustments are made. The tax 65060
commissioner shall not make such adjustments in any year in which 65061
the amount resulting from the adjustment would be less than the 65062
amount resulting from the adjustment in the preceding year. 65063

(B) If the director of budget and management makes a 65064
certification to the tax commissioner under division (B) of 65065
section 131.44 of the Revised Code, the amount of tax as 65066
determined under division (A) of this section shall be reduced by 65067
the percentage prescribed in that certification for taxable years 65068
beginning in the calendar year in which that certification is 65069
made. 65070

(C) The levy of this tax on income does not prevent a 65071
municipal corporation, a joint economic development zone created 65072
under section 715.691, or a joint economic development district 65073
created under section 715.70 or 715.71 or sections 715.72 to 65074
715.81 of the Revised Code from levying a tax on income. 65075

(D) This division applies only to taxable years of a trust 65076
beginning in 2002,~~2003~~, or 2004 thereafter. 65077

(1) The tax imposed by this section on a trust shall be 65078
computed by multiplying the Ohio modified taxable income of the 65079
trust by the rates prescribed by division (A) of this section. 65080

(2) A credit is allowed against the tax computed under 65081

division (D) of this section equal to the lesser of (1) the tax
paid to another state or the District of Columbia on the trust's
modified nonbusiness income, other than the portion of the trust's
nonbusiness income that is qualifying investment income as defined
in section 5747.012 of the Revised Code, or (2) the effective tax
rate, based on modified Ohio taxable income, multiplied by the
trust's modified nonbusiness income other than the portion of
trust's nonbusiness income that is qualifying investment income.
The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of
section 5747.98 of the Revised Code do not apply to a trust
subject to this division. Any credits enumerated in other
divisions of section 5747.98 of the Revised Code apply to a trust
subject to this division. To the extent that the trust distributes
income for the taxable year for which a credit is available to the
trust, the credit shall be shared by the trust and its
beneficiaries. The tax commissioner and the trust shall be guided
by applicable regulations of the United States treasury regarding
the sharing of credits.

(E) For the purposes of this section, "trust" means any trust
described in Subchapter J of Chapter 1 of the Internal Revenue
Code, excluding trusts that are not irrevocable as defined in
division (I)(3)(b) of section 5747.01 of the Revised Code and that
have no modified Ohio taxable income for the taxable year,
charitable remainder trusts, qualified funeral trusts and preneed
funeral contract trusts established pursuant to section 1111.19 of
the Revised Code that are not qualified funeral trusts, endowment
and perpetual care trusts, qualified settlement trusts and funds,
designated settlement trusts and funds, and trusts exempted from
taxation under section 501(a) of the Internal Revenue Code.

Sec. 5747.05. As used in this section, "income tax" includes

both a tax on net income and a tax measured by net income. 65113

The following credits shall be allowed against the income tax 65114
imposed by section 5747.02 of the Revised Code on individuals and 65115
estates: 65116

(A)(1) The amount of tax otherwise due under section 5747.02 65117
of the Revised Code on such portion of the adjusted gross income 65118
of any nonresident taxpayer that is not allocable to this state 65119
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 65120

(2) The credit provided under this division shall not exceed 65121
the portion of the total tax due under section 5747.02 of the 65122
Revised Code that the amount of the nonresident taxpayer's 65123
adjusted gross income not allocated to this state pursuant to 65124
sections 5747.20 to 5747.23 of the Revised Code bears to the total 65125
adjusted gross income of the nonresident taxpayer derived from all 65126
sources everywhere. 65127

(3) The tax commissioner may enter into an agreement with the 65128
taxing authorities of any state or of the District of Columbia 65129
that imposes an income tax to provide that compensation paid in 65130
this state to a nonresident taxpayer shall not be subject to the 65131
tax levied in section 5747.02 of the Revised Code so long as 65132
compensation paid in such other state or in the District of 65133
Columbia to a resident taxpayer shall likewise not be subject to 65134
the income tax of such other state or of the District of Columbia. 65135

(B) The lesser of division (B)(1) or (2) of this section: 65136

(1) The amount of tax otherwise due under section 5747.02 of 65137
the Revised Code on such portion of the adjusted gross income of a 65138
resident taxpayer that in another state or in the District of 65139
Columbia is subjected to an income tax. The credit provided under 65140
division (B)(1) of this section shall not exceed the portion of 65141
the total tax due under section 5747.02 of the Revised Code that 65142
the amount of the resident taxpayer's adjusted gross income 65143

subjected to an income tax in the other state or in the District
of Columbia bears to the total adjusted gross income of the
resident taxpayer derived from all sources everywhere.

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(2) The amount of income tax liability to another state or
the District of Columbia on the portion of the adjusted gross
income of a resident taxpayer that in another state or in the
District of Columbia is subjected to an income tax. The credit
provided under division (B)(2) of this section shall not exceed
the amount of tax otherwise due under section 5747.02 of the
Revised Code.

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(3) If the credit provided under division (B) of this section
is affected by a change in either the portion of adjusted gross
income of a resident taxpayer subjected to an income tax in
another state or the District of Columbia or the amount of income
tax liability that has been paid to another state or the District
of Columbia, the taxpayer shall report the change to the tax
commissioner within sixty days of the change in such form as the
commissioner requires.

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(a) In the case of an underpayment, the report shall be
accompanied by payment of any additional tax due as a result of
the reduction in credit together with interest on the additional
tax and is a return subject to assessment under section 5747.13 of
the Revised Code solely for the purpose of assessing any
additional tax due under this division, together with any
applicable penalty and interest. It shall not reopen the
computation of the taxpayer's tax liability under this chapter
from a previously filed return no longer subject to assessment
except to the extent that such liability is affected by an
adjustment to the credit allowed by division (B) of this section.

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(b) In the case of an overpayment, an application for refund
may be filed under this division within the sixty day period

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prescribed for filing the report even if it is beyond the period 65175
prescribed in section 5747.11 of the Revised Code if it otherwise 65176
conforms to the requirements of such section. An application filed 65177
under this division shall only claim refund of overpayments 65178
resulting from an adjustment to the credit allowed by division (B) 65179
of this section unless it is also filed within the time prescribed 65180
in section 5747.11 of the Revised Code. It shall not reopen the 65181
computation of the taxpayer's tax liability except to the extent 65182
that such liability is affected by an adjustment to the credit 65183
allowed by division (B) of this section. 65184

(4) No credit shall be allowed under division (B) of this 65185
section to the extent that for any taxable year the taxpayer has 65186
directly or indirectly deducted, or was required to directly or 65187
indirectly deduct, the amount of income tax liability to another 65188
state or the District of Columbia in computing federal adjusted 65189
gross income. 65190

(C) For a taxpayer sixty-five years of age or older during 65191
the taxable year, a credit for such year equal to fifty dollars 65192
for each return required to be filed under section 5747.08 of the 65193
Revised Code. 65194

(D) A taxpayer sixty-five years of age or older during the 65195
taxable year who has received a lump-sum distribution from a 65196
pension, retirement, or profit-sharing plan in the taxable year 65197
may elect to receive a credit under this division in lieu of the 65198
credit to which the taxpayer is entitled under division (C) of 65199
this section. A taxpayer making such election shall receive a 65200
credit for the taxable year equal to fifty dollars times the 65201
taxpayer's expected remaining life as shown by annuity tables 65202
issued under the provisions of the Internal Revenue Code and in 65203
effect for the calendar year which includes the last day of the 65204
taxable year. A taxpayer making an election under this division is 65205
not entitled to the credit authorized under division (C) of this 65206

section in subsequent taxable years except that if such election
was made prior to July 1, 1983, the taxpayer is entitled to
one-half the credit authorized under such division in subsequent
taxable years but may not make another election under this
division.

(E) A taxpayer who is not sixty-five years of age or older
during the taxable year who has received a lump-sum distribution
from a pension, retirement, or profit-sharing plan in a taxable
year ending on or before July 31, 1991, may elect to take a credit
against the tax otherwise due under this chapter for such year
equal to fifty dollars times the expected remaining life of a
taxpayer sixty-five years of age as shown by annuity tables issued
under the provisions of the Internal Revenue Code and in effect
for the calendar year which includes the last day of the taxable
year. A taxpayer making an election under this division is not
entitled to a credit under division (C) or (D) of this section in
any subsequent year except that if such election was made prior to
July 1, 1983, the taxpayer is entitled to one-half the credit
authorized under division (C) of this section in subsequent years
but may not make another election under this division. No taxpayer
may make an election under this division for a taxable year ending
on or after August 1, 1991.

(F) A taxpayer making an election under either division (D)
or (E) of this section may make only one such election in the
taxpayer's lifetime.

(G)(1) On a joint return filed by a husband and wife, each of
whom had adjusted gross income of at least five hundred dollars,
exclusive of interest, dividends and distributions, royalties,
rent, and capital gains, a credit equal to the percentage shown in
the table contained in this division of the amount of tax due
after allowing for any other credit that precedes the credit under
this division in the order required under section 5747.98 of the

Revised Code.	65239
(2) The credit to which a taxpayer is entitled under this	65240
division in any taxable year is the percentage shown in column B	65241
that corresponds with the taxpayer's adjusted gross income, less	65242
exemptions for the taxable year:	65243
A.	65244
B.	65244
IF THE ADJUSTED GROSS INCOME,	65245
LESS EXEMPTIONS, FOR THE TAX YEAR	65245
IS:	65245
THE CREDIT FOR THE TAXABLE	65245
YEAR IS:	65245
\$25,000 or less	20% 65246
More than \$25,000 but not more	15% 65247
than \$50,000	
More than \$50,000 but not more	10% 65248
than \$75,000	
More than \$75,000	5% 65249
(3) The credit allowed under this division shall not exceed	65250
six hundred fifty dollars in any taxable year.	65251
(H) No claim for credit under this section shall be allowed	65252
unless the claimant furnishes such supporting information as the	65253
tax commissioner prescribes by rules. Each credit under this	65254
section shall be claimed in the order required under section	65255
5747.98 of the Revised Code.	65256
(I) An individual who is a resident for part of a taxable	65257
year and a nonresident for the remainder of the taxable year is	65258
allowed the credits under divisions (A) and (B) of this section in	65259
accordance with rules prescribed by the tax commissioner. In no	65260
event shall the same income be subject to both credits.	65261
(J) The credit allowed under division (A) of this section	65262
shall be calculated based upon the amount of tax due under section	65263
5747.02 of the Revised Code after subtracting any other credits	65264
that precede the credit under that division in the order required	65265

under section 5747.98 of the Revised Code. The credit allowed 65266
under division (B) of this section shall be calculated based upon 65267
the amount of tax due under section 5747.02 of the Revised Code 65268
after subtracting any other credits that precede the credit under 65269
that division in the order required under section 5747.98 of the 65270
Revised Code. 65271

(K) No credit shall be allowed under division (B) of this 65272
section unless the taxpayer furnishes such proof as the tax 65273
commissioner shall require that the income tax liability has been 65274
paid to another state or the District of Columbia. 65275

(L) No credit shall be allowed under division (B) of this 65276
section for compensation that is not subject to the income tax of 65277
another state or the District of Columbia as the result of an 65278
agreement entered into by the tax commissioner under division 65279
(A)(3) of this section. 65280

Sec. 5747.056. For taxable years beginning in 2005 or 65281
thereafter, a credit shall be allowed against the tax imposed by 65282
section 5747.02 of the Revised Code for an individual whose Ohio 65283
adjusted gross income less exemptions is ten thousand dollars or 65284
less. For taxable years beginning in 2005, the credit shall equal 65285
one hundred seven dollars. For taxable years beginning in 2006, 65286
the credit shall equal one hundred two dollars. For taxable years 65287
beginning in 2007, the credit shall equal ninety-eight dollars. 65288
For taxable years beginning in 2008, the credit shall equal 65289
ninety-three dollars. For taxable years beginning in 2009 or 65290
thereafter, the credit shall equal eighty-eight dollars. The 65291
credit shall be claimed in the order required under section 65292
5747.98 of the Revised Code. 65293

Sec. 5747.08. An annual return with respect to the tax 65294
imposed by section 5747.02 of the Revised Code and each tax 65295

imposed under Chapter 5748. of the Revised Code shall be made by 65296
every taxpayer for any taxable year for which the taxpayer is 65297
liable for the tax imposed by that section or under that chapter, 65298
unless the total credits allowed under divisions (E), (F), and (G) 65299
of section 5747.05 of the Revised Code for the year are equal to 65300
or exceed the tax imposed by section 5747.02 of the Revised Code, 65301
in which case no return shall be required unless the taxpayer is 65302
liable for a tax imposed pursuant to Chapter 5748. of the Revised 65303
Code. 65304

(A) If an individual is deceased, any return or notice 65305
required of that individual under this chapter shall be made and 65306
filed by that decedent's executor, administrator, or other person 65307
charged with the property of that decedent. 65308

(B) If an individual is unable to make a return or notice 65309
required by this chapter, the return or notice required of that 65310
individual shall be made and filed by the individual's duly 65311
authorized agent, guardian, conservator, fiduciary, or other 65312
person charged with the care of the person or property of that 65313
individual. 65314

(C) Returns or notices required of an estate or a trust shall 65315
be made and filed by the fiduciary of the estate or trust. 65316

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 65317
of this section, any pass-through entity may file a single return 65318
on behalf of one or more of the entity's investors other than an 65319
investor that is a person subject to the tax imposed under section 65320
5733.06 of the Revised Code. The single return shall set forth the 65321
name, address, and social security number or other identifying 65322
number of each of those pass-through entity investors and shall 65323
indicate the distributive share of each of those pass-through 65324
entity investor's income taxable in this state in accordance with 65325
sections 5747.20 to 5747.231 of the Revised Code. Such 65326
pass-through entity investors for whom the pass-through entity 65327

elects to file a single return are not entitled to the exemption 65328
or credit provided for by sections 5747.02 and 5747.022 of the 65329
Revised Code; shall calculate the tax before business credits at 65330
the highest rate of tax set forth in section 5747.02 of the 65331
Revised Code for the taxable year for which the return is filed; 65332
and are entitled to only their distributive share of the business 65333
credits as defined in division (D)(2) of this section. A single 65334
check drawn by the pass-through entity shall accompany the return 65335
in full payment of the tax due, as shown on the single return, for 65336
such investors, other than investors who are persons subject to 65337
the tax imposed under section 5733.06 of the Revised Code. 65338

(b)(i) A pass-through entity shall not include in such a 65339
single return any investor that is a trust to the extent that any 65340
direct or indirect current, future, or contingent beneficiary of 65341
the trust is a person subject to the tax imposed under section 65342
5733.06 of the Revised Code. 65343

(ii) A pass-through entity shall not include in such a single 65344
return any investor that is itself a pass-through entity to the 65345
extent that any direct or indirect investor in the second 65346
pass-through entity is a person subject to the tax imposed under 65347
section 5733.06 of the Revised Code. 65348

(c) Nothing in division (D) of this section precludes the tax 65349
commissioner from requiring such investors to file the return and 65350
make the payment of taxes and related interest, penalty, and 65351
interest penalty required by this section or section 5747.02, 65352
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 65353
of this section shall be construed to provide to such an investor 65354
or pass-through entity any additional deduction or credit, other 65355
than the credit provided by division (J) of this section, solely 65356
on account of the entity's filing a return in accordance with this 65357
section. Such a pass-through entity also shall make the filing and 65358
payment of estimated taxes on behalf of the pass-through entity 65359

investors other than an investor that is a person subject to the
tax imposed under section 5733.06 of the Revised Code. 65360
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(2) For the purposes of this section, "business credits"
means the credits listed in section 5747.98 of the Revised Code 65362
excluding the following credits: 65363
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(a) The retirement credit under division (B) of section
5747.055 of the Revised Code; 65365
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(b) The senior citizen credit under division (C) of section
5747.05 of the Revised Code; 65367
65368

(c) The lump sum distribution credit under division (D) of
section 5747.05 of the Revised Code; 65369
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(d) The dependent care credit under section 5747.054 of the
Revised Code; 65371
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(e) The lump sum retirement income credit under division (C)
of section 5747.055 of the Revised Code; 65373
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(f) The lump sum retirement income credit under division (D)
of section 5747.055 of the Revised Code; 65375
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(g) The lump sum retirement income credit under division (E)
of section 5747.055 of the Revised Code; 65377
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(h) The credit for displaced workers who pay for job training
under section 5747.27 of the Revised Code; 65379
65380

(i) The twenty-dollar personal exemption credit under section
5747.022 of the Revised Code; 65381
65382

(j) The joint filing credit under division (G) of section
5747.05 of the Revised Code; 65383
65384

(k) The nonresident credit under division (A) of section
5747.05 of the Revised Code; 65385
65386

(l) The credit for a resident's out-of-state income under
division (B) of section 5747.05 of the Revised Code; 65387
65388

(m) The low-income credit under section 5747.056 of the 65389
Revised Code. 65390

(3) The election provided for under division (D) of this 65391
section applies only to the taxable year for which the election is 65392
made by the pass-through entity. Unless the tax commissioner 65393
provides otherwise, this election, once made, is binding and 65394
irrevocable for the taxable year for which the election is made. 65395
Nothing in this division shall be construed to provide for any 65396
deduction or credit that would not be allowable if a nonresident 65397
pass-through entity investor were to file an annual return. 65398

(4) If a pass-through entity makes the election provided for 65399
under division (D) of this section, the pass-through entity shall 65400
be liable for any additional taxes, interest, interest penalty, or 65401
penalties imposed by this chapter if the commissioner finds that 65402
the single return does not reflect the correct tax due by the 65403
pass-through entity investors covered by that return. Nothing in 65404
this division shall be construed to limit or alter the liability, 65405
if any, imposed on pass-through entity investors for unpaid or 65406
underpaid taxes, interest, interest penalty, or penalties as a 65407
result of the pass-through entity's making the election provided 65408
for under division (D) of this section. For the purposes of 65409
division (D) of this section, "correct tax due" means the tax that 65410
would have been paid by the pass-through entity had the single 65411
return been filed in a manner reflecting the commissioner's 65412
findings. Nothing in division (D) of this section shall be 65413
construed to make or hold a pass-through entity liable for tax 65414
attributable to a pass-through entity investor's income from a 65415
source other than the pass-through entity electing to file the 65416
single return. 65417

(E) If a husband and wife file a joint federal income tax 65418
return for a taxable year, they shall file a joint return under 65419
this section for that taxable year, and their liabilities are 65420

joint and several, but, if the federal income tax liability of 65421
either spouse is determined on a separate federal income tax 65422
return, they shall file separate returns under this section. 65423

If either spouse is not required to file a federal income tax 65424
return and either or both are required to file a return pursuant 65425
to this chapter, they may elect to file separate or joint returns, 65426
and, pursuant to that election, their liabilities are separate or 65427
joint and several. If a husband and wife file separate returns 65428
pursuant to this chapter, each must claim the taxpayer's own 65429
exemption, but not both, as authorized under section 5747.02 of 65430
the Revised Code on the taxpayer's own return. 65431

(F) Each return or notice required to be filed under this 65432
section shall contain the signature of the taxpayer or the 65433
taxpayer's duly authorized agent and of the person who prepared 65434
the return for the taxpayer, and shall include the taxpayer's 65435
social security number. Each return shall be verified by a 65436
declaration under the penalties of perjury. The tax commissioner 65437
shall prescribe the form that the signature and declaration shall 65438
take. 65439

(G) Each return or notice required to be filed under this 65440
section shall be made and filed as required by section 5747.04 of 65441
the Revised Code, on or before the fifteenth day of April of each 65442
year, on forms that the tax commissioner shall prescribe, together 65443
with remittance made payable to the treasurer of state in the 65444
combined amount of the state and all school district income taxes 65445
shown to be due on the form, unless the combined amount shown to 65446
be due is one dollar or less, in which case that amount need not 65447
be remitted. 65448

Upon good cause shown, the commissioner may extend the period 65449
for filing any notice or return required to be filed under this 65450
section and may adopt rules relating to extensions. If the 65451

extension results in an extension of time for the payment of any 65452
state or school district income tax liability with respect to 65453
which the return is filed, the taxpayer shall pay at the time the 65454
tax liability is paid an amount of interest computed at the rate 65455
per annum prescribed by section 5703.47 of the Revised Code on 65456
that liability from the time that payment is due without extension 65457
to the time of actual payment. Except as provided in section 65458
5747.132 of the Revised Code, in addition to all other interest 65459
charges and penalties, all taxes imposed under this chapter or 65460
Chapter 5748. of the Revised Code and remaining unpaid after they 65461
become due, except combined amounts due of one dollar or less, 65462
bear interest at the rate per annum prescribed by section 5703.47 65463
of the Revised Code until paid or until the day an assessment is 65464
issued under section 5747.13 of the Revised Code, whichever occurs 65465
first. 65466

If the commissioner considers it necessary in order to ensure 65467
the payment of the tax imposed by section 5747.02 of the Revised 65468
Code or any tax imposed under Chapter 5748. of the Revised Code, 65469
the commissioner may require returns and payments to be made 65470
otherwise than as provided in this section. 65471

(H) If any report, claim, statement, or other document 65472
required to be filed, or any payment required to be made, within a 65473
prescribed period or on or before a prescribed date under this 65474
chapter is delivered after that period or that date by United 65475
States mail to the agency, officer, or office with which the 65476
report, claim, statement, or other document is required to be 65477
filed, or to which the payment is required to be made, the date of 65478
the postmark stamped on the cover in which the report, claim, 65479
statement, or other document, or payment is mailed shall be deemed 65480
to be the date of delivery or the date of payment. 65481

If a payment is required to be made by electronic funds 65482
transfer pursuant to section 5747.072 of the Revised Code, the 65483

payment is considered to be made when the payment is received by 65484
the treasurer of state or credited to an account designated by the 65485
treasurer of state for the receipt of tax payments. 65486

"The date of the postmark" means, in the event there is more 65487
than one date on the cover, the earliest date imprinted on the 65488
cover by the United States postal service. 65489

(I) The amounts withheld by the employer pursuant to section 65490
5747.06 of the Revised Code shall be allowed to the recipient of 65491
the compensation as credits against payment of the appropriate 65492
taxes imposed on the recipient by section 5747.02 and under 65493
Chapter 5748. of the Revised Code. 65494

(J) If, in accordance with division (D) of this section, a 65495
pass-through entity elects to file a single return and if any 65496
investor is required to file the return and make the payment of 65497
taxes required by this chapter on account of the investor's other 65498
income that is not included in a single return filed by a 65499
pass-through entity, the investor is entitled to a refundable 65500
credit equal to the investor's proportionate share of the tax paid 65501
by the pass-through entity on behalf of the investor. The investor 65502
shall claim the credit for the investor's taxable year in which or 65503
with which ends the taxable year of the pass-through entity. 65504
Nothing in this chapter shall be construed to allow any credit 65505
provided in this chapter to be claimed more than once. For the 65506
purposes of computing any interest, penalty, or interest penalty, 65507
the investor shall be deemed to have paid the refundable credit 65508
provided by this division on the day that the pass-through entity 65509
paid the estimated tax or the tax giving rise to the credit. 65510

Sec. 5747.331. (A) As used in this section: 65511

(1) "Borrower" means any person that receives a loan from the 65512
director of development under section 166.21 of the Revised Code, 65513

regardless of whether the borrower is subject to the tax imposed
by section 5747.02 of the Revised Code. 65514
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(2) "Related member" has the same meaning as in section
5733.042 of the Revised Code. 65516
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(3) "Qualified research and development loan payments" has
the same meaning as in division (D) of section 166.21 of the
Revised Code. 65518
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(B) Beginning ~~in~~ with taxable year 2003 and ending with
taxable years beginning in 2007, a nonrefundable credit is allowed
against the tax imposed by section 5747.02 of the Revised Code
equal to a borrower's qualified research and development loan
payments made during the calendar year that includes the last day
of the taxable year for which the credit is claimed. The amount of
the credit for a taxable year shall not exceed one hundred fifty
thousand dollars. No taxpayer is entitled to claim a credit under
this section unless it has obtained a certificate issued by the
director of development under division (D) of section 166.21 of
the Revised Code. The credit shall be claimed in the order
required under section 5747.98 of the Revised Code. The credit, to
the extent it exceeds the taxpayer's tax liability for the taxable
year after allowance for any other credits that precede the credit
under this section in that order, shall be carried forward to the
next succeeding taxable year or years until fully used. Any credit
not fully utilized by the taxable year beginning in 2007 may be
carried forward and applied against the tax levied by Chapter
5751. of the Revised Code to the extent allowed by section 5751.52
of the Revised Code. 65521
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(C) A borrower entitled to a credit under this section may
assign the credit, or a portion thereof, to any of the following: 65541
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(1) A related member of that borrower; 65543

(2) The owner or lessee of the eligible research and 65544

development project; 65545

(3) A related member of the owner or lessee of the eligible 65546
research and development project. 65547

A borrower making an assignment under this division shall 65548
provide written notice of the assignment to the tax commissioner 65549
and the director of development, in such form as the tax 65550
commissioner prescribes, before the credit that was assigned is 65551
used. The assignor may not claim the credit to the extent it was 65552
assigned to an assignee. The assignee may claim the credit only to 65553
the extent the assignor has not claimed it. 65554

(D) If any taxpayer is a shareholder in an S corporation, a 65555
partner in a partnership, or a member in a limited liability 65556
company treated as a partnership for federal income tax purposes, 65557
the taxpayer shall be allowed the taxpayer's distributive or 65558
proportionate share of the credit available through the S 65559
corporation, partnership, or limited liability company. 65560

(E) The aggregate credit against the taxes imposed by 65561
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 65562
Code that may be claimed under this section and section 5733.352 65563
of the Revised Code by a borrower as a result of qualified 65564
research and development loan payments attributable during a 65565
calendar year to any one loan shall not exceed one hundred fifty 65566
thousand dollars. 65567

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a 65568
deduction from federal adjusted gross income is allowed to a 65569
contributor for the amount contributed during the taxable year to 65570
a variable college savings program account and to a purchaser of 65571
tuition ~~credits~~ units under the Ohio college savings program 65572
created by Chapter 3334. of the Revised Code to the extent that 65573
the amounts of such contributions and purchases were not deducted 65574

in determining the contributor's or purchaser's federal adjusted 65575
gross income for the taxable year. The combined amount of 65576
contributions and purchases deducted in any taxable year by a 65577
taxpayer or the taxpayer and the taxpayer's spouse, regardless of 65578
whether the taxpayer and the taxpayer's spouse file separate 65579
returns or a joint return, is limited to two thousand dollars for 65580
each beneficiary for whom contributions or purchases are made. If 65581
the combined annual contributions and purchases for a beneficiary 65582
exceed two thousand dollars, the excess may be carried forward and 65583
deducted in future taxable years until the contributions and 65584
purchases have been fully deducted. 65585

(B) In computing Ohio adjusted gross income, a deduction from 65586
federal adjusted gross income is allowed for: 65587

(1) Income related to tuition ~~credits~~ units and contributions 65588
that as of the end of the taxable year have not been refunded 65589
pursuant to the termination of a tuition payment contract or 65590
variable college savings program account under section 3334.10 of 65591
the Revised Code, to the extent that such income is included in 65592
federal adjusted gross income. 65593

(2) The excess of the total purchase price of tuition ~~credits~~ 65594
units refunded during the taxable year pursuant to the termination 65595
of a tuition payment contract under section 3334.10 of the Revised 65596
Code over the amount of the refund, to the extent the amount of 65597
the excess was not deducted in determining federal adjusted gross 65598
income. Division (B)(2) of this section applies only to ~~credits~~ 65599
units for which no deduction was allowable under division (A) of 65600
this section. 65601

(C) In computing Ohio adjusted gross income, there shall be 65602
added to federal adjusted gross income the amount of loss related 65603
to tuition ~~credits~~ units and contributions that as of the end of 65604
the taxable year have not been refunded pursuant to the 65605
termination of a tuition payment contract or variable college 65606

savings program account under section 3334.10 of the Revised Code, 65607
to the extent that such loss was deducted in determining federal 65608
adjusted gross income. 65609

(D) For taxable years in which distributions or refunds are 65610
made under a tuition payment or variable college savings program 65611
contract for any reason other than payment of tuition or other 65612
higher education expenses, or the beneficiary's death, disability, 65613
or receipt of a scholarship as described in section 3334.10 of the 65614
Revised Code: 65615

(1) If the distribution or refund is paid to the purchaser or 65616
contributor or beneficiary, any portion of the distribution or 65617
refund not included in the recipient's federal adjusted gross 65618
income shall be added to the recipient's federal adjusted gross 65619
income in determining the recipient's Ohio adjusted gross income, 65620
except that the amount added shall not exceed amounts previously 65621
deducted under division (A) of this section less any amounts added 65622
under division (D)(1) of this section in a prior taxable year. 65623

(2) If amounts paid by a purchaser or contributor on or after 65624
January 1, 2000, are distributed or refunded to someone other than 65625
the purchaser or contributor or beneficiary, the amount of the 65626
payment not included in the recipient's federal adjusted gross 65627
income, less any amounts added under division (D) of this section 65628
in a prior taxable year, shall be added to the recipient's federal 65629
adjusted gross income in determining the recipient's Ohio adjusted 65630
gross income. 65631

Sec. 5747.80. (A) Upon the issuance of a tax credit 65632
certificate by the Ohio venture capital authority under section 65633
150.07 of the Revised Code, a credit may be claimed against the 65634
tax imposed by section 5747.02 of the Revised Code. The credit 65635
shall be claimed for the taxable year specified in the certificate 65636
issued by the authority and in the order required under section 65637

5747.98 of the Revised Code. 65638

(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate. 65639
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(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due after all the taxpayer's credits are deducted in that order. If claim a refundable credit equal to the sum of the following: 65645
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(1) The amount, if any, of the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted; 65656
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(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under section 5747.02 of the Revised Code after all nonrefundable credits are deducted. 65659
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(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any taxable year is greater than the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits that, under section 5747.98 of the Revised Code, precede the credit allowed under this section, the 65663
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excess shall be allowed as a nonrefundable credit in each of the 65669
ensuing ten taxable years, but the amount of any excess credit 65670
allowed in the ensuing taxable year shall be deducted from the 65671
balance carried forward to the next taxable year. 65672

Sec. 5747.98. (A) To provide a uniform procedure for 65673
calculating the amount of tax due under section 5747.02 of the 65674
Revised Code, a taxpayer shall claim any credits to which the 65675
taxpayer is entitled in the following order: 65676

(1) The retirement income credit under division (B) of 65677
section 5747.055 of the Revised Code; 65678

(2) The senior citizen credit under division (C) of section 65679
5747.05 of the Revised Code; 65680

(3) The lump sum distribution credit under division (D) of 65681
section 5747.05 of the Revised Code; 65682

(4) The dependent care credit under section 5747.054 of the 65683
Revised Code; 65684

(5) The lump sum retirement income credit under division (C) 65685
of section 5747.055 of the Revised Code; 65686

(6) The lump sum retirement income credit under division (D) 65687
of section 5747.055 of the Revised Code; 65688

(7) The lump sum retirement income credit under division (E) 65689
of section 5747.055 of the Revised Code; 65690

(8) The low-income credit under section 5747.056 of the 65691
Revised Code; 65692

(9) The credit for displaced workers who pay for job training 65693
under section 5747.27 of the Revised Code; 65694

~~(9)~~(10) The campaign contribution credit under section 65695
5747.29 of the Revised Code; 65696

~~(10)~~(11) The twenty-dollar personal exemption credit under 65697

section 5747.022 of the Revised Code;	65698
(11) <u>(12)</u> The joint filing credit under division (G) of section 5747.05 of the Revised Code;	65699 65700
(12) <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	65701 65702
(13) <u>(14)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	65703 65704
(14) <u>(15)</u> The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	65705 65706 65707
(15) <u>(16)</u> The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	65708 65709
(16) <u>(17)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	65710 65711
(17) <u>(18)</u> The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	65712 65713
(18) <u>(19)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	65714 65715
(19) <u>(20)</u> The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	65716 65717 65718 65719
(20) <u>(21)</u> The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	65720 65721 65722
(21) <u>(22)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	65723 65724 65725
(22) <u>(23)</u> The job training credit under section 5747.39 of the	65726

Revised Code;	65727
(23) (24) The enterprise zone credit under section 5709.66 of the Revised Code;	65728 65729
(24) (25) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	65730 65731
(25) (26) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	65732 65733
(26) (27) The ethanol plant investment credit under section 5747.75 of the Revised Code;	65734 65735
(27) (28) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	65736 65737
(28) (29) The export sales credit under section 5747.057 of the Revised Code;	65738 65739
(29) (30) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	65740 65741 65742
(30) (31) The enterprise zone credits under section 5709.65 of the Revised Code;	65743 65744
(31) (32) The research and development credit under section 5747.331 of the Revised Code;	65745 65746
(32) (33) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	65747 65748
(33) (34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	65749 65750
(34) (35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	65751 65752 65753
(35) (36) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	65754 65755

~~(36)~~(37) 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.

(B) For any credit, except the credits enumerated in
divisions (A)~~(32)~~(33) to ~~(36)~~(37) of this section and the credit
granted under division (I) of section 5747.08 of the Revised Code,
the amount of the credit for a taxable 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. Nothing in this chapter shall be
construed to allow a taxpayer to claim, directly or indirectly, a
credit more than once for a taxable year.

Sec. 5749.02. (A) For the purpose of providing revenue to
administer the state's coal mining and reclamation regulatory
program, to meet the environmental and resource management needs
of this state, and to reclaim land affected by mining, an excise
tax is hereby levied on the privilege of engaging in the severance
of natural resources from the soil or water of this state. The tax
shall be imposed upon the severer and shall be:

- (1) Seven cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;
- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural
gas;
- (7) One cent per ton of clay, sandstone or conglomerate,

shale, gypsum, or quartzite. 65785

(B) Of the moneys received by the treasurer of state from the 65786
tax levied in division (A)(1) of this section, six and 65787
three-tenths per cent shall be credited to the geological mapping 65788
fund created in section 1505.09 of the Revised Code, fourteen and 65789
two-tenths per cent shall be credited to the reclamation 65790
forfeiture fund created in section 1513.18 of the Revised Code, 65791
fifty-seven and nine-tenths per cent shall be credited to the coal 65792
mining administration and reclamation reserve fund created in 65793
section 1513.181 of the Revised Code, and the remainder shall be 65794
credited to the unreclaimed lands fund created in section 1513.30 65795
of the Revised Code. When, at any time during a fiscal year, the 65796
chief of the division of mineral resources management finds that 65797
the balance of the coal mining administration and reclamation 65798
reserve fund is below two million dollars, the chief shall certify 65799
that fact to the director of budget and management. Upon receipt 65800
of the chief's certification, the director shall direct the 65801
~~treasurer of state~~ tax commissioner to instead credit to the coal 65802
mining administration and reclamation reserve fund during the 65803
remainder of the fiscal year for which the certification is made 65804
the fourteen and two-tenths per cent of the moneys collected from 65805
the tax levied in division (A)(1) of this section and otherwise 65806
required by this division to be credited to the reclamation 65807
forfeiture fund. 65808

Fifteen per cent of the moneys received by the treasurer of 65809
state from the tax levied in division (A)(2) of this section shall 65810
be credited to the geological mapping fund and the remainder shall 65811
be credited to the unreclaimed lands fund. 65812

Of the moneys received by the treasurer of state from the tax 65813
levied in divisions (A)(3) and (4) of this section, seven and 65814
five-tenths per cent shall be credited to the geological mapping 65815
fund, forty-two and five-tenths per cent shall be credited to the 65816

unreclaimed lands fund, and the remainder shall be credited to the 65817
surface mining fund created in section 1514.06 of the Revised 65818
Code. 65819

Of the moneys received by the treasurer of state from the tax 65820
levied in divisions (A)(5) and (6) of this section, ninety per 65821
cent shall be credited to the oil and gas well fund created in 65822
section 1509.02 of the Revised Code and ten per cent shall be 65823
credited to the geological mapping fund. All of the moneys 65824
received by the treasurer of state from the tax levied in division 65825
(A)(7) of this section shall be credited to the surface mining 65826
fund. 65827

(C) For the purpose of paying the state's expenses for 65828
reclaiming mined lands that the operator failed to reclaim under a 65829
coal mining and reclamation permit issued under Chapter 1513. of 65830
the Revised Code, or under a surface mining permit issued under 65831
Chapter 1514. of the Revised Code, for which the operator's bond 65832
is not sufficient to pay the state's expense for reclamation, 65833
there is hereby levied an excise tax on the privilege of engaging 65834
in the severance of coal from the soil or water of this state in 65835
addition to the taxes levied by divisions (A)(1) and (D) of this 65836
section. The tax shall be imposed at the rate of one cent per ton 65837
of coal. Moneys received by the treasurer of state from the tax 65838
levied under this division shall be credited to the reclamation 65839
forfeiture fund created in section 1513.18 of the Revised Code. 65840

(D) For the purpose of paying the state's expenses for 65841
reclaiming coal mined lands that the operator failed to reclaim in 65842
accordance with Chapter 1513. of the Revised Code under a coal 65843
mining and reclamation permit issued after April 10, 1972, but 65844
before September 1, 1981, for which the operator's bond is not 65845
sufficient to pay the state's expense for reclamation and paying 65846
the expenses for administering the state's coal mining and 65847
reclamation regulatory program, there is hereby levied an excise 65848

tax on the privilege of engaging in the severance of coal from the 65849
soil or water of this state in addition to the taxes levied by 65850
divisions (A)(1) and (C) of this section. The tax shall be imposed 65851
at the rate of one cent per ton of coal as prescribed in this 65852
division. Moneys received by the treasurer of state from the tax 65853
levied by this division shall be credited to the reclamation 65854
forfeiture fund created in section 1513.18 of the Revised Code. 65855

When, at the close of any fiscal year, the chief finds that 65856
the balance of the reclamation forfeiture fund, plus estimated 65857
transfers to it from the coal mining and reclamation reserve fund 65858
under section 1513.181 of the Revised Code, plus the estimated 65859
revenues from the tax levied by this division for the remainder of 65860
the calendar year that includes the close of the fiscal year, are 65861
sufficient to complete the reclamation of such lands, the purposes 65862
for which the tax under this division is levied shall be deemed 65863
accomplished at the end of that calendar year. The chief, within 65864
thirty days after the close of the fiscal year, shall certify 65865
those findings to the tax commissioner, and the tax shall cease to 65866
be imposed after the last day of that calendar year. 65867

(E) On the day fixed for the payment of the severance taxes 65868
required to be paid by this section, the taxes with any penalties 65869
or interest on them shall become a lien on all property of the 65870
taxpayer in this state whether the property is employed by the 65871
taxpayer in the prosecution of its business or is in the hands of 65872
an assignee, trustee, or receiver for the benefit of creditors or 65873
stockholders. The lien shall continue until the taxes and any 65874
penalties or interest thereon are paid. 65875

Upon failure of the taxpayer to pay a tax on the day fixed 65876
for payment, the tax commissioner may file, for which no filing 65877
fee shall be charged, in the office of the county recorder in each 65878
county in this state in which the taxpayer owns or has a 65879
beneficial interest in real estate, notice of the lien containing 65880

a brief description of the real estate. The lien shall not be
valid as against any mortgagee, purchaser, or judgment creditor
whose rights have attached prior to the time the notice is filed
in the county in which the real estate that is the subject of the
mortgage, purchase, or judgment lien is located. The notice shall
be recorded in a book kept by the recorder called the "severance
tax lien record" and indexed under the name of the taxpayer
charged with the tax. When the tax has been paid, the tax
commissioner shall furnish to the taxpayer an acknowledgement of
payment, which the taxpayer may record with the recorder of each
county in which notice of the lien has been filed.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals,
combinations of individuals of any form, receivers, assignees,
trustees in bankruptcy, firms, companies, joint-stock companies,
business trusts, estates, partnerships, limited liability
partnerships, limited liability companies, associations, joint
ventures, clubs, societies, for-profit and nonprofit corporations,
S corporations, qualified subchapter S subsidiaries, qualified
subchapter S trusts, trusts, entities that are disregarded for
federal income tax purposes, and any other entities. "Person" does
not include the state, its agencies, and its political
subdivisions.

(B) "Consolidated elected taxpayer" means a group of two or
more persons treated as a single taxpayer for purposes of this
chapter as the result of an election made under section 5751.011
of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons
treated as a single taxpayer for purposes of this chapter under
section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons. 65911
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(E) "Excluded person" means any of the following: 65915

(1) Any person with not more than forty thousand dollars of taxable gross receipts during the tax year. Division (E)(1) of this section does not apply to a person that is a member of a group that is a consolidated elected taxpayer or a combined taxpayer; 65916
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(2) A public utility, as defined in division (A) of section 5727.01 of the Revised Code, that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax year under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts: 65921
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(a) Taxable gross receipts directly attributed to the activity of an electric company, a rural electric company, or any other activity other than the activity of a heating company or natural gas company; 65927
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(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity; 65931
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(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall 65936
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be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code. 65942
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As used in division (E)(2) of this section, "combined company," "electric company," "heating company," "natural gas company," and "rural electric company" have the same meanings as in section 5727.01 of the Revised Code. 65944
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(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax year under this chapter; 65948
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(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax year under this chapter; 65953
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(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p); 65958
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(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a); 65960
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(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D); 65962
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(8) A financial services company, which, for the purposes of this chapter and Chapter 5733. of the Revised Code, is a person directly or indirectly subject to supervision, regulation, or review by the federal reserve board, the comptroller of the currency, the office of thrift supervision in the United States department of the treasury, or the division of financial institutions in the department of commerce; 65964
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(9) A person directly or indirectly majority-owned or 65971

controlled by a financial institution, financial holding company, 65972
bank holding company, savings and loan holding company, financial 65973
services company, or insurance company described in division 65974
(E)(3), (5), (6), (7), (8), or (10) of this section; 65975

(10) A domestic insurance company or foreign insurance 65976
company, as defined in section 5725.01 of the Revised Code, that 65977
paid the insurance company premiums tax imposed by section 5725.18 65978
or Chapter 5729. of the Revised Code based on one or more 65979
measurement periods that include the entire tax year under this 65980
chapter; 65981

(11) A person that was formed or otherwise came into 65982
existence with the purpose of facilitating a securitization or 65983
similar transaction or series of transactions for or by any person 65984
described in division (E)(3), (5), (6), (7), (8), (9), or (10) of 65985
this section. 65986

(F) "Gross receipts" means the total amount realized, without 65987
deduction for the cost of goods sold or other expenses incurred, 65988
in a transaction or transactions from activities that contribute 65989
to the production of gross income, including the fair market value 65990
of any property and any services received, and any debt 65991
transferred or forgiven as consideration, and including the total 65992
amount realized with regard to unrelated business income of 65993
tax-exempt organizations under the Internal Revenue Code. 65994

(1) The following are examples of gross receipts: 65995

(a) Amounts realized from the sale, exchange, or other 65996
disposition of the taxpayer's property to or with another; 65997

(b) Amounts realized from the taxpayer's performance of 65998
services for another; 65999

(c) Amounts realized from another's use or possession of the 66000
taxpayer's property or capital; 66001

<u>(d) Amounts realized with regard to the taxpayer's unrelated</u>	66002
<u>business income;</u>	66003
<u>(e) Any combination of the foregoing amounts.</u>	66004
<u>(2) "Gross receipts" excludes the following amounts:</u>	66005
<u>(a) Interest income except interest on credit sales;</u>	66006
<u>(b) Dividend income, distributions received, and distributive</u>	66007
<u>or proportionate shares of a pass-through entity as defined under</u>	66008
<u>section 5733.04 of the Revised Code;</u>	66009
<u>(c) Receipts from the sale, exchange, or other disposition of</u>	66010
<u>an asset described in section 1221 or 1231 of the Internal Revenue</u>	66011
<u>Code, without regard to the length of time the person held the</u>	66012
<u>asset;</u>	66013
<u>(d) Proceeds received attributable to the repayment,</u>	66014
<u>maturity, or redemption of the principal of a loan, bond, mutual</u>	66015
<u>fund, certificate of deposit, or marketable instrument;</u>	66016
<u>(e) The principal amount received under a repurchase</u>	66017
<u>agreement or on account of any transaction properly characterized</u>	66018
<u>as a loan to the person;</u>	66019
<u>(f) Contributions received by a trust, plan, or other</u>	66020
<u>arrangement, any of which is described in section 501(a) of the</u>	66021
<u>Internal Revenue Code, or to which Title 26, Subtitle A, Chapter</u>	66022
<u>1, Subchapter (D) of the Internal Revenue Code applies;</u>	66023
<u>(g) Compensation, whether current or deferred, and whether in</u>	66024
<u>cash or in kind, received or to be received by an employee for</u>	66025
<u>services rendered to or for an employer, including reimbursements</u>	66026
<u>received by or for an individual for medical or education</u>	66027
<u>expenses, health insurance premiums, or employee expenses, or on</u>	66028
<u>account of a dependent care spending account, legal services plan,</u>	66029
<u>any cafeteria plan described in section 125 of the Internal</u>	66030
<u>Revenue Code, or any similar employee reimbursement;</u>	66031

<u>(h) Proceeds received from the issuance of the taxpayer's own</u>	66032
<u>stock, options, warrants, puts, or calls, or from the sale of the</u>	66033
<u>person's treasury stock;</u>	66034
<u>(i) Proceeds received on the account of payments from life</u>	66035
<u>insurance policies;</u>	66036
<u>(j) Gifts or charitable contributions received, membership</u>	66037
<u>dues received, and payments received for educational courses,</u>	66038
<u>meetings, meals, or similar payments to a trade, professional, or</u>	66039
<u>other similar association; fundraising receipts received by any</u>	66040
<u>person when any excess receipts are donated or used exclusively</u>	66041
<u>for charitable purposes; and proceeds received by a nonprofit</u>	66042
<u>organization except those proceeds realized with regard to its</u>	66043
<u>unrelated business income;</u>	66044
<u>(k) Damages received as the result of litigation in excess of</u>	66045
<u>amounts that, if received without litigation, would be gross</u>	66046
<u>receipts;</u>	66047
<u>(l) Property, money, and other amounts received or acquired</u>	66048
<u>by an agent on behalf of another in excess of the agent's</u>	66049
<u>commission, fee, or other remuneration;</u>	66050
<u>(m) Tax refunds and other tax benefit recoveries;</u>	66051
<u>(n) Pension reversions;</u>	66052
<u>(o) Contributions to capital;</u>	66053
<u>(p) Sales or use taxes collected as a vendor or an</u>	66054
<u>out-of-state seller on behalf of the taxing jurisdiction from a</u>	66055
<u>consumer;</u>	66056
<u>(q) In the case of receipts from the sale of cigarettes or</u>	66057
<u>tobacco products by a wholesale dealer, retail dealer,</u>	66058
<u>distributor, manufacturer, or seller, all as defined in section</u>	66059
<u>5743.01 of the Revised Code, an amount equal to the federal and</u>	66060
<u>state excise taxes paid by any person on or for such cigarettes or</u>	66061

tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code; 66062
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(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code; 66064
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(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code or by a person acting as an agent under section 4301.17 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code; 66070
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(t) Receipts from the sale of spirituous liquor, as defined in section 4301.01 of the Revised Code, by a person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code in excess of the compensation paid to the agent pursuant to that section; 66078
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(u) Amounts received as pari-mutuel wagers that are received, facilitated, managed, controlled, or otherwise effectuated by a person holding a valid permit to conduct horse racing meetings under Chapter 3769. of the Revised Code or by a person that is not located in this state but is otherwise licensed by and registered with the state racing commission. 66083
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(v) Amounts received from the sale of Ohio lottery tickets by a lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code in excess of any bonus, commission, or reimbursement payable to the sales agent; 66089
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(w) Amounts received by an authorized agent of the chief of the division of wildlife from issuing licenses and permits under section 1533.13 of the Revised Code in excess of the fees charged and collected by the authorized agent for taking affidavits and issuing such licenses and permits. 66093
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(x) Receipts realized by a motor vehicle dealer, as defined in section 4501.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer. 66098
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(y) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state. 66103
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(3) "Gross receipts" excludes amounts received or recorded on the taxpayer's books and records relating to transactions between an electric company and a regional transmission organization that are mandated by the federal energy regulatory commission, even if such amounts are received in the ordinary course of the taxpayer's trade or business and are a form of payment for a transaction listed in division (F)(1) of this section. 66106
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(4) In the case of a taxpayer that is a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 66113
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(5) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's 66121
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federal taxable year that includes the tax period. If a taxpayer's 66124
method of accounting for federal income tax purposes changes, its 66125
method of accounting for gross receipts under this chapter shall 66126
be changed accordingly. 66127

In calculating gross receipts, the following shall be 66128
deducted: 66129

(a) Cash discounts allowed and taken; 66130

(b) Returns and allowances; 66131

(c) Bad debts from receipts upon which the tax imposed by 66132
this chapter was paid in a prior quarterly tax payment period. For 66133
the purposes of this division, "bad debts" mean any debts that 66134
have become worthless or uncollectible between the preceding and 66135
current quarterly tax payment periods, have been uncollected for 66136
at least six months, and may be claimed as a deduction under 66137
section 126 of the Internal Revenue Code and the regulations 66138
adopted pursuant thereto, or that could be claimed as such if the 66139
taxpayer kept its accounts on the accrual basis. "Bad debts" does 66140
not include uncollectible amounts on property that remains in the 66141
possession of the taxpayer until the full purchase price is paid, 66142
expenses in attempting to collect any account receivable or for 66143
any portion of the debt recovered, and repossessed property. 66144

(G) "Taxable gross receipts" means gross receipts sitused to 66145
this state under section 5751.03 of the Revised Code. 66146

(H) A person has "substantial nexus with this state" if any 66147
of the following applies. The person: 66148

(1) Owns or uses a part or all of its capital in this state; 66149

(2) Holds a certificate of compliance with the laws of this 66150
state authorizing the person to do business in this state; 66151

(3) Owns or leases property in this state; 66152

(4) Has one or more individuals performing services in this 66153

state; 66154

(5) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the constitution of the United States. 66155
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(I) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code. 66158
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(J) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes. 66160
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(K) "Quarterly tax reporting period" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December. 66168
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(L) "Tax year" means the calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter. 66172
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Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements: 66174
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(1) The group includes all persons, other than persons enumerated in divisions (E)(2) to (11) of section 5751.01 of the Revised Code, having at least fifty per cent of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners; 66177
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(2) The group applies to the tax commissioner for approval to be treated as a consolidated elected taxpayer pursuant to division 66182
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(D) of this section; 66184

(3) The group agrees that if the commissioner approves the election, all of the following apply: 66185
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(a) The group shall file reports as a single taxpayer for at least the two tax years following the election so long at least two or more of the members of the group meet the requirements of division (B)(1) of this section. 66187
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(b) Before the expiration of the second such tax year, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another two tax years. 66191
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(c) If, at any time during the tax years covered by the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group. 66196
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(d) The group agrees to the application of division (B) of this section. 66204
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(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group. 66206
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(C)(1) A consolidated elected taxpayer shall exclude taxable gross receipts between its members. Except as provided in division (C)(2) of this section, nothing in this section shall have the effect of excluding taxable gross receipts received from persons 66210
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that are not members of the group. 66214

(2) Gross receipts related to the sale or transmission of 66215
electricity through the use of an intermediary regional 66216
transmission organization approved by the federal energy 66217
regulatory commission shall be excluded from taxable gross 66218
receipts under division (C)(1) of this section if all other 66219
requirements of that division are met, even if the receipts are 66220
from and to the same member of the group. 66221

(D) To make the election to be a consolidated elected 66222
taxpayer, a group of persons shall apply to the tax commissioner 66223
and pay the commissioner a registration fee equal to the lesser of 66224
two hundred dollars or twenty dollars for each person in the 66225
group. No additional fee shall be imposed for the addition of new 66226
members to the group once the group has remitted a fee in the 66227
amount of two hundred dollars. The application shall be filed and 66228
the fee paid before the later of the beginning of the first tax 66229
year to which the election applies or November 15, 2005. The fee 66230
shall be collected and used in the same manner as provided in 66231
section 5751.05 of the Revised Code. 66232

The election shall be made on a form prescribed by the tax 66233
commissioner for that purpose and shall be signed by one or more 66234
individuals with authority, separately or together, to make a 66235
binding election on behalf of all persons in the group. The tax 66236
commissioner shall approve a group's election if the group 66237
satisfies the requirements of division (A) of this section. 66238

Any person acquired or formed after the filing of the 66239
registration shall be included in the group, and the group shall 66240
notify the tax commissioner of any additions to the group with the 66241
next quarterly tax return it files with the commissioner. 66242

(E) Each member of a consolidated elected taxpayer is jointly 66243
and severally liable for the tax imposed by this chapter and any 66244

penalties or interest thereon. The tax commissioner may require 66245
one person in the group to be the taxpayer for purposes of 66246
registration and remittance of the tax, but all members of the 66247
group are subject to assessment under section 5751.09 of the 66248
Revised Code. 66249

Sec. 5751.012. (A) All persons, other than persons enumerated 66250
in divisions (E)(2) to (11) of section 5751.01 of the Revised 66251
Code, having more than fifty per cent of the value of their 66252
ownership interest owned or controlled, directly or constructively 66253
through related interests, by common owners shall be members of a 66254
combined taxpayer if those persons are not members of a 66255
consolidated elected taxpayer pursuant to an election under 66256
section 5751.011 of the Revised Code. 66257

(B) A combined taxpayer shall register, file returns, and pay 66258
taxes under this chapter as a single taxpayer. 66259

(C) A combined taxpayer shall neither exclude taxable gross 66260
receipts between its members nor from others that are not members. 66261

(D) A combined taxpayer shall pay to the tax commissioner a 66262
registration fee equal to the lesser of two hundred dollars or 66263
twenty dollars for each person in the group. No additional fee 66264
shall be imposed for the addition of new members to the group once 66265
the group has remitted a fee in the amount of two hundred dollars. 66266
The fee shall be timely paid before the later of the beginning of 66267
the first tax year or November 15, 2005. The fee shall be 66268
collected and used in the same manner as provided in section 66269
5751.05 of the Revised Code. 66270

Any person acquired or formed after the filing of the 66271
registration shall be included in the group, and the group must 66272
notify the tax commissioner of any additions with the next 66273
quarterly tax return it files with the commissioner. 66274

(E) Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code. 66275
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Sec. 5751.02. For the purpose of funding the needs of this state and its local governments, there is hereby levied an annual commercial activity tax on each person with taxable gross receipts in this state for the privilege of doing business in this state at any time during the tax year. The tax levied under this section is a tax measured by taxable gross receipts and is not a tax on or measured by net income, and is in addition to any other taxes or fees imposed under the Revised Code. 66282
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Sec. 5751.03. (A) Except as provided in division (B) of this section, the tax levied under this chapter for a tax year equals one hundred dollars plus the product of two and six-tenths mills per dollar times taxable gross receipts in the tax year in excess of one million dollars. 66290
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(B) For quarterly tax reporting periods beginning on or after January 1, 2006, and ending on or before March 31, 2009, the rate of tax computed on the basis of taxable gross receipts in excess of one million dollars shall be as follows in lieu of the rate prescribed in division (A) of this section: 66295
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(1) For the quarterly tax reporting period ending March 31, 2006, six-tenths of one mill per dollar of taxable gross receipts; 66300
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(2) For the quarterly tax reporting periods ending June 30, 2006, September 30, 2006, December 31, 2006, and March 31, 2007, one and four-hundredths mills per dollar of taxable gross 66302
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<u>receipts;</u>	66305
<u>(3) For the quarterly tax reporting periods ending June 30,</u>	66306
<u>2007, September 30, 2007, December 31, 2007, and March 31, 2008,</u>	66307
<u>one and fifty-six-hundredths mills per dollar of taxable gross</u>	66308
<u>receipts;</u>	66309
<u>(4) For the quarterly tax reporting periods ending June 30,</u>	66310
<u>2008, September 30, 2008, December 31, 2008, and March 31, 2009,</u>	66311
<u>two and eight-hundredths mills per dollar of taxable gross</u>	66312
<u>receipts.</u>	66313
<u>Sec. 5751.031. From its inception through June 30, 2007, the</u>	66314
<u>commercial activity tax levied under this chapter is intended to</u>	66315
<u>generate eight hundred fifteen million dollars. Not later than</u>	66316
<u>September 30, 2007, the tax commissioner shall determine the total</u>	66317
<u>amount of tax paid under this chapter, excluding registration</u>	66318
<u>fees, that was collected from the inception of the tax through</u>	66319
<u>June 30, 2007. If such amount is less than ninety per cent or</u>	66320
<u>greater than one hundred ten per cent of eight hundred fifteen</u>	66321
<u>million dollars, then, for purposes of taxable periods after</u>	66322
<u>calendar year 2007, the tax rate in division (B) of section</u>	66323
<u>5751.03 of the Revised Code shall be adjusted to reflect the tax</u>	66324
<u>rate that would have generated eight hundred fifteen million</u>	66325
<u>dollars of tax from the inception of the tax through June 30,</u>	66326
<u>2007. Upon making such adjustment, the commissioner shall report</u>	66327
<u>and certify the adjusted tax rate to the governor, the president</u>	66328
<u>of the senate, the speaker of the house of representatives, and</u>	66329
<u>all members of the general assembly. The commissioner shall</u>	66330
<u>publish the revised rate by journal entry and provide notice to</u>	66331
<u>taxpayers of the revised rate.</u>	66332
<u>Sec. 5751.033. (A) As used in this section:</u>	66333
<u>(1) "First budget stabilization fund amount" means the</u>	66334

portion of the excess amount, if any, that is not more than 66335
forty-two million nine hundred fifty thousand dollars. 66336

(2) "Tax rate stabilization fund amount" means the portion of 66337
the excess amount, if any, that is more than forty-two million 66338
nine hundred fifty thousand dollars but not more than eighty-five 66339
million nine hundred thousand dollars. 66340

(3) "Second budget stabilization fund amount" means the 66341
portion of the excess amount, if any, which is more than 66342
eighty-five million nine hundred thousand dollars. 66343

(4) "Excess amount" means the amount of tax paid under 66344
section 5751.03 of the Revised Code that was collected from July 66345
1, 2007, through June 30, 2008, and that exceeds eight hundred 66346
fifty-nine million dollars. 66347

(B) Not later than September 1, 2008, the tax commissioner 66348
shall determine the total amount of tax paid under section 5751.03 66349
of the Revised Code that was collected from July 1, 2007, through 66350
June 30, 2008. If such amount of tax paid is more than eight 66351
hundred fifty-nine million dollars but is not more than nine 66352
hundred one million nine hundred fifty thousand dollars, then the 66353
tax commissioner shall proceed in accordance with division (C) of 66354
this section. If such amount of tax paid is at least nine hundred 66355
one million nine hundred fifty thousand dollars but is not more 66356
than nine hundred forty-four million nine hundred thousand 66357
dollars, then the tax commissioner shall proceed in accordance 66358
with division (D) of this section. If such amount of tax paid is 66359
more than nine hundred forty-four million nine hundred thousand 66360
dollars, then the tax commissioner shall proceed in accordance 66361
with divisions (E) and (F) of this section. If such amount of tax 66362
paid is less than seven hundred seventy-three million one hundred 66363
thousand dollars, then the tax commissioner shall proceed in 66364
accordance with division (F) of this section. 66365

(C) The tax commissioner shall certify the first budget stabilization fund amount to the director of budget and management, and the director shall transfer such amount to the budget stabilization fund created under section 131.43 of the Revised Code. 66366
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(D)(1) The tax commissioner shall certify the first budget stabilization fund amount to the director of budget and management, and the director shall transfer such amount to the budget stabilization fund created under section 131.43 of the Revised Code. 66371
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(2) The tax commissioner shall certify the tax rate stabilization fund amount to the director of budget and management, and the director shall transfer such amount to the tax rate stabilization fund created under section 131.46 of the Revised Code. 66376
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(E)(1) The tax commissioner shall certify the first budget stabilization fund amount to the director of budget and management, and the director shall transfer such amount to the budget stabilization fund created under section 131.43 of the Revised Code. 66381
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(2) The tax commissioner shall certify the tax rate stabilization fund amount to the director of budget and management and the director shall transfer such amount to the tax rate stabilization fund created under section 131.46 of the Revised Code. 66386
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(3) The tax commissioner shall certify the second budget stabilization fund amount to the director of budget and management, and the director shall transfer such amount to the budget stabilization fund created under section 131.43 of the Revised Code. 66391
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(F) For purposes of tax periods after calendar year 2008, the 66396

tax commissioner shall adjust the rate in effect under division 66397
(B) of section 5751.03 of the Revised Code to reflect the tax rate 66398
that would have generated eight hundred fifty-nine million dollars 66399
of tax for fiscal year 2008. Upon making such adjustment, the tax 66400
commissioner shall, not later than September 1, 2008, report and 66401
certify the adjusted tax rate to the governor, the president of 66402
the senate, the speaker of the house of representatives, and all 66403
members of the general assembly. The tax commissioner shall 66404
publicize the revised rate by journal entry and provide notice to 66405
taxpayers of the revised rate. 66406

Sec. 5751.034. (A) As used in this section: 66407

(1) "First budget stabilization fund amount" means the 66408
portion of the excess amount, if any, that is not more than 66409
seventy-seven million four hundred thousand dollars. 66410

(2) "Tax rate stabilization fund amount" means the portion of 66411
the excess amount, if any, which is more than seventy-seven 66412
million four hundred thousand dollars but not more than one 66413
hundred fifty-four million eight hundred thousand dollars. 66414

(3) "Second budget stabilization fund amount" means the 66415
portion of the excess amount, if any, that is more than one 66416
hundred fifty-four million eight hundred thousand dollars. 66417

(4) "Excess amount" means the amount of tax paid under 66418
section 5751.03 of the Revised Code that was collected from July 66419
1, 2009, through June 30, 2010, and that exceeds one billion five 66420
hundred forty-eight million dollars. 66421

(B) Not later than September 1, 2010, the tax commissioner 66422
shall determine the total amount of tax paid under section 5751.03 66423
of the Revised Code that was collected from July 1, 2009, through 66424
June 30, 2010. If such amount of tax paid is more than one billion 66425
five hundred forty-eight million dollars, but is not more than one 66426

billion six hundred twenty-five million four hundred thousand 66427
dollars, then the tax commissioner shall proceed in accordance 66428
with division (C) of this section. If such amount of tax paid is 66429
at least one billion six hundred twenty-five million four hundred 66430
thousand dollars, but is not more than one billion seven hundred 66431
two million eight hundred thousand dollars, then the tax 66432
commissioner shall proceed in accordance with division (D) of this 66433
section. If such amount of tax paid is more than one billion seven 66434
hundred two million eight hundred thousand dollars, then the tax 66435
commissioner shall proceed in accordance with divisions (E) and 66436
(F) of this section. If such amount of tax paid is less than one 66437
billion three hundred ninety-three million two hundred thousand 66438
dollars, then the tax commissioner shall proceed in accordance 66439
with division (F) of this section. 66440

(C) The tax commissioner shall certify the first budget 66441
stabilization fund amount to the director of budget and 66442
management, and the director shall transfer such amount to the 66443
budget stabilization fund created under section 131.43 of the 66444
Revised Code. 66445

(D)(1) The tax commissioner shall certify the first budget 66446
stabilization fund amount to the director of budget and 66447
management, and the director shall transfer such amount to the 66448
budget stabilization fund created under section 131.43 of the 66449
Revised Code. 66450

(2) The tax commissioner shall certify the tax rate 66451
stabilization fund amount to the director of budget and 66452
management, and the director shall transfer such amount to the tax 66453
rate stabilization fund created under section 131.46 of the 66454
Revised Code. 66455

(E)(1) The tax commissioner shall certify the first budget 66456
stabilization fund amount to the director of budget and 66457

management, and the director shall transfer such amount to the 66458
budget stabilization fund created under section 131.43 of the 66459
Revised Code. 66460

(2) The tax commissioner shall certify the tax rate 66461
stabilization fund amount to the director of budget and 66462
management, and the director shall transfer such amount to the tax 66463
rate stabilization fund created under section 131.46 of the 66464
Revised Code. 66465

(3) The tax commissioner shall certify the second budget 66466
stabilization fund amount to the director of budget and 66467
management, and the director shall transfer such amount to the 66468
budget stabilization fund created under section 131.43 of the 66469
Revised Code. 66470

(F) For purposes of tax periods after calendar year 2010, the 66471
tax commissioner shall adjust the rate in effect under division 66472
(B) of section 5751.03 of the Revised Code to reflect the tax rate 66473
that would have generated one billion five hundred forty-eight 66474
million dollars of tax for fiscal year 2010. Upon making such 66475
adjustment, the tax commissioner shall, not later than September 66476
1, 2008, report and certify the adjusted tax rate to the governor, 66477
the president of the senate, the speaker of the house of 66478
representatives, and all members of the general assembly. The tax 66479
commissioner shall publicize the revised rate by journal entry and 66480
provide notice to taxpayers of the revised rate. 66481

Sec. 5751.032. For the purposes of this chapter, gross 66482
receipts shall be sitused to this state as follows: 66483

(A) Gross rents and royalties from real property located in 66484
this state shall be sitused to this state. 66485

(B) Gross rents and royalties from tangible personal property 66486
shall be sitused to this state to the extent the tangible personal 66487

property is located or used in this state. 66488

(C) Gross receipts from the sale of electricity and electric transmission and distribution services shall be sitused to this state in the manner provided under section 5733.059 of the Revised Code. 66489
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(D) Gross receipts from the sale of real property located in this state shall be sitused to this state. 66493
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(E) Gross receipts from the sale of tangible personal property shall be sitused to this state if the property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property. The place where tangible personal property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property even when the purchaser accepts property in this state and then transports the property by common carrier or by other means of transportation to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 66495
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(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not 66514
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based on the amount of use of the property, but rather on the 66519
right to use the property, and the payor has the right to use the 66520
property in this state, then the receipts from the sale, exchange, 66521
disposition, or other grant of the right to use such property 66522
shall be sitused to this state to the extent the receipts are 66523
based on the right to use the property in this state. 66524

(G) Gross receipts from the sale of services, and all other 66525
gross receipts not otherwise sitused under this section, shall be 66526
sitused to this state in the proportion that the purchaser's 66527
benefit in this state with respect to what was purchased bears to 66528
the purchaser's benefit everywhere with respect to what was 66529
purchased. The physical location where the purchaser ultimately 66530
uses or receives the benefit of what was purchased shall be 66531
paramount in determining the proportion of the benefit in this 66532
state to the benefit everywhere. 66533

(H) If the situsing provisions of divisions (A) to (G) of 66534
this section do not fairly represent the extent of a person's 66535
activity in this state, the person may request, or the tax 66536
commissioner may require or permit, an alternative method. Such 66537
request by a person must be made within the applicable statute of 66538
limitations set forth in this chapter. 66539

(I) The tax commissioner may adopt rules to provide 66540
additional guidance to the application of this section, and 66541
provide alternative methods of situsing gross receipts that apply 66542
to all persons, or subset of persons, that are engaged in similar 66543
business or trade activities. 66544

Sec. 5751.04. (A) Not later than the later of November 15, 66545
2005, or thirty days after a person first has more than forty 66546
thousand dollars in taxable gross receipts in a tax year, each 66547
person subject to this chapter shall register with the tax 66548
commissioner on the form prescribed by the commissioner. The form 66549

shall include the following: 66550

(1) The person's name; 66551

(2) If applicable, the name of the state or country under the laws of which the person is incorporated; 66552
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(3) If applicable, the location of a person's principal office, and, in the case of a foreign corporation, the location of its principal place of business in this state and the name and address of the officer or agent of the corporation in charge of the business in this state; 66554
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(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each; 66559
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(5) The kind of business in which the person is engaged, including applicable business or industry codes; 66563
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(6) The date of the beginning of the person's annual accounting period that includes the first day of January of the tax year; 66565
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(7) If the person is not a corporation or a sole proprietor, the names of all the person's owners and officers; 66568
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(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent; 66570
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(9) All other information that the commissioner requires to administer and enforce this chapter. 66573
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(B) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division (A) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register 66575
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electronically. The registration fee shall be paid in the manner 66580
prescribed by the tax commissioner at the same time the 66581
registration is due if a person is subject to the tax imposed 66582
under this chapter before January 1, 2006. If a person first 66583
becomes subject to the tax after that date, the registration fee 66584
is payable with the first quarterly payment of tax the person is 66585
required to remit as prescribed by section 5751.05 of the Revised 66586
Code. If a registration fee is not paid when due, an additional 66587
fee is imposed in the amount of one hundred dollars per month or 66588
part thereof the fee is outstanding, not to exceed one thousand 66589
dollars. The tax commissioner may abate the additional fee. The 66590
fee imposed under this division may be assessed in the same manner 66591
as the tax imposed under this chapter. Proceeds from the fee shall 66592
be credited to the commercial activity tax administrative fund, 66593
which is hereby created in the state treasury for the commissioner 66594
to use in implementing and administering the tax imposed under 66595
this chapter. 66596

No registration fee is payable by a person for a tax year if 66597
the person first begins business operations in this state after 66598
the thirtieth day of November of that tax year or if the person's 66599
taxable gross receipts for the tax year exceed forty thousand 66600
dollars but do not exceed forty thousand dollars as of the first 66601
day of December of the tax year. 66602

Registration fees paid under this section, excluding any 66603
additional fee imposed for late payment of the registration fee, 66604
shall be credited against the first payment of tax payable under 66605
section 5751.03 of the Revised Code after the registration fee is 66606
paid. 66607

(C) If a person that has registered under this section is no 66608
longer a taxpayer subject to this chapter, including no longer 66609
being a taxpayer because of the application of division (D)(1) of 66610
section 5751.01 of the Revised Code, the person shall notify the 66611

commissioner that the person's registration should be cancelled. 66612

Sec. 5751.05. (A) As used in this section, "applicable rate" means the rate of tax imposed under division (A) or (B) of section 5751.03 of the Revised Code, as applicable to a quarterly tax reporting period, after any adjustment under section 5751.031 of the Revised Code. "Applicable rate" does not include the one hundred dollar tax amount imposed under division (A) of that section. 66613
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(B) The tax imposed under this chapter is payable in the amounts and at the times prescribed in divisions (B)(1), (2), (3), and (4) of this section. 66620
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(1) If a taxpayer's taxable gross receipts exceed two hundred fifty thousand dollars for the first, second, or third quarterly tax reporting period in the tax year, the taxpayer shall pay an amount equal to the product of the applicable rate times the taxpayer's taxable gross receipts for the period in excess of two hundred fifty thousand dollars on or before the fifteenth day of the second month following the end of that quarterly tax reporting period. 66623
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(2) If a taxpayer's taxable gross receipts do not exceed two hundred fifty thousand dollars for any quarterly tax reporting period in the tax year, no tax is payable for that quarterly tax reporting period except as provided in division (B)(3) or (4) of this section. 66631
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(3) Each taxpayer shall pay one hundred dollars on or before the fifteenth day of February following the end of each tax year, except as provided in division (B)(4) of this section. 66636
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(4) If a person first becomes subject to the tax imposed under this chapter on or after January 1, 2006, the taxpayer shall pay one hundred dollars on or before the fifteenth day of the 66639
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second month following the end of the first quarterly tax reporting period in which the person becomes subject to the tax, in addition to any amount payable under division (B)(1) of this section. If the person registers with the tax commissioner within the time prescribed in section 5751.04 of the Revised Code, the person shall pay fifty dollars, in lieu of one hundred dollars, in addition to any amount payable under division (B)(1) of this section. The payment required under division (B)(4) of this section is in lieu of the payment required under division (B)(3) of this section and applies only to the first tax year a person becomes subject to the tax imposed under this chapter.

(C) For any quarterly tax reporting period for which a taxpayer is required to make a payment of tax under division (B) of this section, the taxpayer shall file a return for that period in the form and manner prescribed by the tax commissioner. The return shall include the taxpayer's taxable gross receipts for the quarterly tax reporting period and the amount of tax due for the period, as prescribed in division (B) of this section, and any other information the tax commissioner requires.

(D) Each taxpayer that is required to file a return under division (C) of this section for any quarterly tax reporting period of the tax year shall file an annual report for that tax year with the tax commissioner on or before the fifteenth day of March of the following tax year. The annual report shall include the taxpayer's taxable gross receipts, the amount of tax due, and the amount of tax paid for each quarterly tax reporting period of the tax year, and any other information the tax commissioner requires.

(E)(1) If a taxpayer's taxable gross receipts for a tax year exceed one million dollars, the taxpayer, on or before the fifteenth day of March following the end of the tax year, shall pay tax equal to the amount by which the taxpayer's taxable gross

receipts in excess of one million dollars, multiplied by the 66674
applicable tax rate, exceeds the amount of tax paid in the tax 66675
year under division (B)(1) of this section, except as provided in 66676
division (F) of this section. The tax payable under division 66677
(D)(1) of this section is in addition to the amount payable under 66678
division (B)(3) or (4) of this section. 66679

(2) If a taxpayer's taxable gross receipts for a tax year do 66680
not exceed one million dollars, the taxpayer shall pay tax equal 66681
to one hundred dollars minus the amount paid for the tax year 66682
under division (B)(1) or (3) of this section. If the amount of tax 66683
the taxpayer paid for the tax year under those divisions exceeds 66684
one hundred dollars, the excess shall be refunded to the taxpayer 66685
or applied to the tax due for a subsequent tax year as provided in 66686
section 5751.08 of the Revised Code. 66687

(F) For tax years 2006, 2007, 2008, and 2009, the amount of 66688
tax payable on or before the fifteenth day of February following 66689
the end of the tax year shall be computed as follows: 66690

(1) For tax year 2006, six-tenths of one mill per dollar 66691
multiplied by one-fourth of the taxable gross receipts in excess 66692
of one million dollars, plus one and four-hundredths mills per 66693
dollar multiplied by three-fourths of taxable gross receipts in 66694
excess of one million dollars; 66695

(2) For tax year 2007, one and four-hundredths mills per 66696
dollar multiplied by one-fourth of the taxable gross receipts in 66697
excess of one million dollars, plus one and fifty-six-hundredths 66698
mills per dollar multiplied by three-fourths of taxable gross 66699
receipts in excess of one million dollars; 66700

(3) For tax year 2008, one and fifty-six-hundredths mills per 66701
dollar multiplied by one-fourth of the taxable gross receipts in 66702
excess of one million dollars, plus two and eight-hundredths mills 66703
per dollar multiplied by three-fourths of taxable gross receipts 66704

in excess of one million dollars; 66705

(4) For tax year 2009, two and eight-hundredths mills per 66706
dollar multiplied by one-fourth of the taxable gross receipts in 66707
excess of one million dollars, plus two and three-tenths mills per 66708
dollar multiplied by three-fourths of taxable gross receipts in 66709
excess of one million dollars. 66710

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 66711
pay the full amount of the tax due within the period prescribed 66712
therefor under this chapter shall pay a penalty in an amount not 66713
exceeding the greater of fifty dollars or ten per cent of the tax 66714
required to be paid for the quarterly tax reporting period. 66715

(B)(1) If any additional tax is found to be due, the tax 66716
commissioner may impose an additional penalty of up to fifteen per 66717
cent on the additional tax found to be due. 66718

(2) Any delinquent payments of the tax made after a taxpayer 66719
is notified of an audit or a tax discrepancy by the commissioner 66720
is subject to the penalty imposed by division (B) of this section. 66721
If an assessment is issued under section 5751.10 of the Revised 66722
Code in connection with such delinquent payments, the payments 66723
shall be credited to the assessment. 66724

(C) If the tax commissioner notifies a person required to 66725
register under section 5751.05 of the Revised Code of such 66726
requirement and of the requirement to remit the tax due under this 66727
chapter, and the person fails to so register and remit the tax 66728
within sixty days after such notice, the tax commissioner may 66729
impose an additional penalty of up to thirty-five per cent of the 66730
tax due. The penalty imposed under this division is in addition to 66731
any other penalties imposed under this section. 66732

(D) The tax commissioner may collect any penalty or interest 66733
imposed by this section in the same manner as the tax imposed 66734

under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter. 66735
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(E) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements. 66738
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(F) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first. 66741
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Sec. 5751.07. (A) Any person required to file returns for a quarterly tax reporting period shall remit each tax payment, and, if required by the tax commissioner, file the quarterly tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file returns or the annual report and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically. 66746
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(B) A person required by this section to remit taxes or file returns or the annual report electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause. 66754
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(C)(1) If a person required to remit taxes or file a return or annual report electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following: 66759
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(a) For either of the first two quarterly tax reporting periods the person so fails, five per cent of the amount of the payment that was required to be remitted; 66762
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(b) For the third and any subsequent quarterly tax reporting periods the person so fails, ten per cent of the amount of the payment that was required to be remitted. 66765
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(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty. 66768
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Sec. 5751.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund. 66774
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(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code. 66783
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(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due. 66792
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(D) No person with an active registration as a taxpayer under this chapter may claim a refund under this section for the tax imposed under division (B)(3) or (4) of section 5751.03 of the Revised Code unless the person cancelled the registration before the tenth day of February of the current calendar year pursuant to division (C) of section 5751.04 of the Revised Code. 66796
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(E) Except as provided in section 5751.091 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax year the amount of any refund due the taxpayer under this chapter for a preceding tax year. 66802
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Sec. 5751.081. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, unpaid fee payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, incorrect medical assistance payments under section 5111.02 of the Revised Code, or any unpaid charge, penalty, or interest arising from any of the foregoing. 66807
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If a taxpayer entitled to a refund under section 5751.08 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. This section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the 66818
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applicable law, any time provided for petition for reassessment, 66827
request for reconsideration, or other appeal of the legality or 66828
validity of the amount giving rise to the debt expires without an 66829
appeal having been filed in the manner provided by law. 66830

Sec. 5751.09. (A) The tax commissioner may make an 66831
assessment, based on any information in the commissioner's 66832
possession, against any person that fails to file a return report 66833
or pay any tax as required by this chapter. The commissioner shall 66834
give the person assessed written notice of the assessment as 66835
provided in section 5703.37 of the Revised Code. With the notice, 66836
the commissioner shall provide instructions on the manner in which 66837
to petition for reassessment and request a hearing with respect to 66838
the petition. 66839

(B) Unless the person assessed, within sixty days after 66840
service of the notice of assessment, files with the tax 66841
commissioner, either personally or by certified mail, a written 66842
petition signed by the person or the person's authorized agent 66843
having knowledge of the facts, the assessment becomes final, and 66844
the amount of the assessment is due and payable from the person 66845
assessed to the treasurer of state. The petition shall indicate 66846
the objections of the person assessed, but additional objections 66847
may be raised in writing if received by the commissioner prior to 66848
the date shown on the final determination. 66849

If a petition for reassessment has been properly filed, the 66850
commissioner shall proceed under section 5703.60 of the Revised 66851
Code. 66852

(C)(1) After an assessment becomes final, if any portion of 66853
the assessment, including accrued interest, remains unpaid, a 66854
certified copy of the tax commissioner's entry making the 66855
assessment final may be filed in the office of the clerk of the 66856
court of common pleas in the county in which the person resides or 66857

has its principal place of business in this state, or in the 66858
office of the clerk of court of common pleas of Franklin county. 66859

(2) Immediately upon the filing of the entry, the clerk shall 66860
enter judgment for the state against the person assessed in the 66861
amount shown on the entry. The judgment may be filed by the clerk 66862
in a loose-leaf book entitled, "special judgments for the 66863
commercial activity tax" and shall have the same effect as other 66864
judgments. Execution shall issue upon the judgment at the request 66865
of the tax commissioner, and all laws applicable to sales on 66866
execution shall apply to sales made under the judgment. 66867

(3) The portion of the assessment not paid within sixty days 66868
after the day the assessment was issued shall bear interest at the 66869
rate per annum prescribed by section 5703.47 of the Revised Code 66870
from the day the tax commissioner issues the assessment until it 66871
is paid. Interest shall be paid in the same manner as the tax and 66872
may be collected by the issuance of an assessment under this 66873
section. 66874

(D) If the tax commissioner believes that collection of the 66875
tax will be jeopardized unless proceedings to collect or secure 66876
collection of the tax are instituted without delay, the 66877
commissioner may issue a jeopardy assessment against the person 66878
liable for the tax. Immediately upon the issuance of the jeopardy 66879
assessment, the commissioner shall file an entry with the clerk of 66880
the court of common pleas in the manner prescribed by division (C) 66881
of this section. Notice of the jeopardy assessment shall be served 66882
on the person assessed or the person's authorized agent in the 66883
manner provided in section 5703.37 of the Revised Code within five 66884
days of the filing of the entry with the clerk. The total amount 66885
assessed is immediately due and payable, unless the person 66886
assessed files a petition for reassessment in accordance with 66887
division (B) of this section and provides security in a form 66888
satisfactory to the commissioner and in an amount sufficient to 66889

satisfy the unpaid balance of the assessment. Full or partial 66890
payment of the assessment does not prejudice the commissioner's 66891
consideration of the petition for reassessment. 66892

(E) The tax commissioner shall immediately forward to the 66893
treasurer of state all amounts the commissioner receives under 66894
this section, and such amounts shall be considered as revenue 66895
arising from the tax imposed under this chapter. 66896

(F) Except as otherwise provided in this division, no 66897
assessment shall be made or issued against a taxpayer for the tax 66898
imposed under this chapter more than four years after the due date 66899
for the filing of the annual report for the tax year for which the 66900
tax was reported, or more than four years after the annual report 66901
for the tax year was filed, whichever is later. Nothing in this 66902
division bars an assessment against a taxpayer that fails to file 66903
a return or report required by this chapter or that files a 66904
fraudulent return or report. 66905

(G) If the tax commissioner possesses information that 66906
indicates that the amount of tax a taxpayer is required to pay 66907
under this chapter exceeds the amount the taxpayer paid, the tax 66908
commissioner may audit a sample of the taxpayer's sales or 66909
receipts over a representative period of time to ascertain the 66910
amount of tax due, and may issue an assessment based on the audit. 66911
The tax commissioner shall make a good faith effort to reach 66912
agreement with the taxpayer in selecting a representative sample. 66913
The tax commissioner may apply a sampling method only if the 66914
commissioner has prescribed the method by rule adopted under 66915
Chapter 119. of the Revised Code. 66916

(H) If the whereabouts of a person subject to this chapter is 66917
not known to the tax commissioner, the secretary of state is 66918
hereby deemed to be that person's agent for purposes of service of 66919
process of notice of any assessment, action, or proceedings 66920

instituted in this state against the person under this chapter. 66921
Such process or notice shall be served on such person by the 66922
commissioner or by one of the commissioner's agents by leaving at 66923
the office of the secretary of state, at least fifteen days before 66924
the return day of such process or notice, a true and attested copy 66925
of the notice, and by sending to such person by ordinary mail, 66926
with an endorsement thereon of the service upon the secretary of 66927
state, addressed to such person at the person's last known 66928
address. 66929

Sec. 5751.10. If any person liable for the tax imposed under 66930
this chapter sells the trade or business, disposes in any manner 66931
other than in the regular course of business at least seventy-five 66932
per cent of assets of the trade or business, or quits the trade or 66933
business, any tax owed by such person shall become due and payable 66934
immediately, and the person shall pay the tax under this section, 66935
including any applicable penalties and interest, within fifteen 66936
days after the date of selling or quitting the trade or business. 66937
The person's successor shall withhold a sufficient amount of the 66938
purchase money to cover the amount due and unpaid until the former 66939
owner produces a receipt from the tax commissioner showing that 66940
the amounts are paid or a certificate indicating that no taxes are 66941
due. If a purchaser fails to withhold purchase money, that person 66942
is personally liable up to the purchase money amount, for such 66943
amounts that are unpaid during the operation of the business by 66944
the former owner. 66945

The tax commissioner may adopt rules regarding the issuance 66946
of certificates under this section, including the waiver of the 66947
need for a certificate if certain criteria are met. 66948

Sec. 5751.11. If any person subject to this chapter fails to 66949
report or pay the tax as required under this chapter, or fails to 66950

pay any penalty imposed under this chapter within ninety days 66951
after the time prescribed for payment of the penalty, the attorney 66952
general, on the request of the tax commissioner, shall commence an 66953
action in quo warranto in the court of appeals of the county in 66954
which the person has its principal place of business to forfeit 66955
and annul its privileges or franchise within this state. If the 66956
court finds that the person is in default for the amount claimed, 66957
it shall render judgment revoking the person's privileges or 66958
franchise within this state and shall otherwise proceed as 66959
provided in Chapter 2733. of the Revised Code. 66960

Sec. 5751.12. The tax commissioner may prescribe requirements 66961
for the keeping of records and other pertinent documents, the 66962
filing of copies of federal income tax returns and determinations, 66963
and computations reconciling federal income tax returns with the 66964
returns and reports required by section 5751.05 of the Revised 66965
Code. The commissioner may require any person, by rule or notice 66966
served on that person, to keep those records that the commissioner 66967
considers necessary to show whether, and the extent to which, a 66968
person is subject to this chapter. Those records and other 66969
documents shall be open during business hours to the inspection of 66970
the commissioner, and shall be preserved for a period of four 66971
years unless the commissioner, in writing, consents to their 66972
destruction within that period, or by order requires that they be 66973
kept longer. If such records are normally kept by the person 66974
electronically, the person shall provide such records to the 66975
commissioner electronically at the commissioner's request. 66976

Any information required by the tax commissioner under this 66977
chapter is confidential as provided for in section 5703.21 of the 66978
Revised Code. However, the commissioner shall make public an 66979
electronic list of all actively registered persons required to 66980
remit the tax under this chapter, including legal names, trade 66981

names, addresses, and account numbers. In addition, such list 66982
shall include all persons that cancelled their registration at any 66983
time during the preceding four calendar years, including the date 66984
the registration was cancelled. 66985

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 66986
the Revised Code: 66987

(1) "School district," "joint vocational school district," 66988
"local taxing unit," "state education aid," "recognized 66989
valuation," "fixed-rate levy," and "fixed-sum levy" have the same 66990
meanings as used in section 5727.84 of the Revised Code. 66991

(2) "State education aid offset" means the amount determined 66992
for each school district or joint vocational school district under 66993
division (A)(1) of section 5751.21 of the Revised Code. 66994

(3) "Machinery and equipment property tax value loss" means 66995
the amount determined under division (C)(1) of this section. 66996

(4) "Inventory property tax value loss" means the amount 66997
determined under division (C)(2) of this section. 66998

(5) "Furniture and fixtures property tax value loss" means 66999
the amount determined under division (C)(3) of this section. 67000

(6) "Machinery and equipment fixed-rate levy loss" means the 67001
amount determined under division (D)(1) of this section. 67002

(7) "Inventory fixed-rate levy loss" means the amount 67003
determined under division (D)(2) of this section. 67004

(8) "Furniture and fixtures fixed-rate levy loss" means the 67005
amount determined under division (D)(3) of this section. 67006

(9) "Fixed-sum levy loss" means the amount determined under 67007
division (E) of this section. 67008

(10) "Machinery and equipment" means personal property 67009
subject to the assessment rate specified in division (F) of 67010

section 5711.22 of the Revised Code. 67011

(11) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code. 67012
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(12) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 67015
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(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. All money in that fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages: 67018
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<u>Fiscal year</u>	<u>General Revenue Fund</u>	<u>School District Tangible Property Tax Replacement Fund</u>	<u>Local Government Tangible Property Tax Replacement Fund</u>	
<u>2006</u>	<u>83%</u>	<u>11.9%</u>	<u>5.1%</u>	67031
<u>2007</u>	<u>37.3%</u>	<u>43.9%</u>	<u>18.8%</u>	67032
<u>2008</u>	<u>27.7%</u>	<u>50.6%</u>	<u>21.7%</u>	67033
<u>2009</u>	<u>36.3%</u>	<u>44.6%</u>	<u>19.1%</u>	67034
<u>2010</u>	<u>41.8%</u>	<u>40.7%</u>	<u>17.5%</u>	67035
<u>2011</u>	<u>36.8%</u>	<u>44.2%</u>	<u>19.0%</u>	67036
<u>2012</u>	<u>40.0%</u>	<u>44.2%</u>	<u>15.8%</u>	67037
<u>2013</u>	<u>43.0%</u>	<u>44.2%</u>	<u>12.8%</u>	67038
<u>2014</u>	<u>45.7%</u>	<u>44.2%</u>	<u>10.1%</u>	67039

<u>2015</u>	<u>48.2%</u>	<u>44.2%</u>	<u>7.6%</u>	67040
<u>2016</u>	<u>50.6%</u>	<u>44.2%</u>	<u>5.2%</u>	67041
<u>2017</u>	<u>52.8%</u>	<u>44.2%</u>	<u>3.0%</u>	67042
<u>2018</u>	<u>54.8%</u>	<u>44.2%</u>	<u>1.0%</u>	67043
<u>2019 and</u> <u>thereafter</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>	67044

(C) Not later than September 15, 2005, the tax commissioner shall determine for each taxing district its machinery and equipment, inventory property, and furniture and fixtures property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), and (3) of this section: 67045
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(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004; 67050
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(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by eight hundred twenty-six one-thousandths; 67053
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(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004. 67056
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To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004. 67059
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(D) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, which are the applicable amounts described in divisions (D)(1), (2), and (3) of this section: 67064
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(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates in effect in tax year 2004 for fixed-rate levies and the tax rates for fixed-rate levies applicable to tax year 2005 and approved at an election conducted before September 1, 2005;

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates in effect in tax year 2004 for fixed-rate levies and the tax rates for fixed-rate levies applicable to tax year 2005 and approved at an election conducted before September 1, 2005;

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates in effect in tax year 2004 for fixed-rate levies and the tax rates for fixed-rate levies applicable to tax year 2005 and approved at an election conducted before September 1, 2005.

(E) As used in division (E) of this section, "qualifying levies" are fixed-sum levies, including fixed-sum school district emergency levies, in effect for tax year 2004 or applicable for tax year 2005 and approved at an election conducted before September 1, 2005.

Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss multiplied by the sum of the

fixed-sum tax rates in effect in tax year 2004 and the estimated 67101
fixed-sum tax rates for levies applicable to tax year 2005 and 67102
approved at an election conducted before September 1, 2005. For 67103
2006 through 2010, this computation shall include all qualifying 67104
levies remaining in effect for the current tax year and any school 67105
district emergency levies that are qualifying levies not remaining 67106
in effect for the current year. For 2011 through 2017, this 67107
computation shall include only qualifying levies remaining in 67108
effect for the current year. For purposes of this computation, a 67109
qualifying school district emergency levy remains in effect in a 67110
year after 2010 only if, for that year, the board of education 67111
levies a school district emergency levy for an annual sum at least 67112
equal to the annual sum levied by the board in tax year 2004 less 67113
the amount of the payment certified under this division for 2006. 67114

(2) The total taxable value in tax year 2004 less the sum of 67115
the machinery and equipment, inventory, and furniture and fixtures 67116
property tax value losses in each school district, joint 67117
vocational school district, and local taxing unit multiplied by 67118
one-half of one mill per dollar. 67119

To facilitate the calculation of the fixed-sum levy loss, not 67120
later than September 1, 2005, any school district or joint 67121
vocational school district in which a fixed-sum levy applicable to 67122
tax year 2005 and approved at an election conducted before 67123
September 1, 2005, shall notify the commissioner in writing of the 67124
estimated rate at which any such levies would be applied in the 67125
first year the levies are applicable. 67126

If the amount determined under division (E) of this section 67127
for any school district, joint vocational school district, or 67128
local taxing unit is greater than zero, that amount shall equal 67129
the reimbursement pursuant to division (D) of section 5751.21 or 67130
division (A)(2) of section 5751.22 of the Revised Code, and the 67131
one-half of one mill that is subtracted under division (E)(2) of 67132

this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 67133
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(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, and furniture and fixtures property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, and furniture and fixtures property fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement. 67137
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(G) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory. 67148
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Sec. 5751.21. (A) Not later than the thirty-first day of July of 2007 through 2017, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section: 67153
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(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section: 67158
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(a) The state education aid computed for the school district 67162

or joint vocational school district for the current fiscal year as 67163
of the thirty-first day of July; 67164

(b) The state education aid that would be computed for the 67165
school district or joint vocational school district for the 67166
current fiscal year as of the thirty-first day of July if the 67167
recognized valuation included the machinery and equipment, 67168
inventory, and furniture and fixtures property tax value losses 67169
for the school district or joint vocational school district, 67170
except that the amount of machinery and equipment property tax 67171
value loss to be added to recognized value for fiscal year 2008 67172
shall be fifty per cent of the machinery and equipment tax value 67173
loss computed under division (C) of this section, and the amount 67174
of inventory tax value loss and furniture and fixtures property 67175
tax value loss to be added to recognized value shall be the 67176
following percentage of the inventory property tax value loss and 67177
furniture and fixtures property tax value loss computed under 67178
division (C) of this section: 67179

(i) For fiscal year 2008, zero per cent in the case of 67180
inventory property tax value loss and twenty per cent in the case 67181
of furniture and fixtures tax value loss; 67182

(ii) For fiscal year 2009, zero per cent in the case of 67183
inventory property tax value loss and forty per cent in the case 67184
of furniture and fixtures property tax value loss; 67185

(iii) For fiscal year 2010, twenty-six and three-tenths per 67186
cent in the case of inventory property tax value loss and sixty 67187
per cent in the case of furniture and fixtures tax value loss; 67188

(iv) For fiscal year 2011, fifty-two and six-tenths per cent 67189
in the case of inventory property tax value loss and eighty per 67190
cent in the case of furniture and fixtures property tax value 67191
loss; 67192

(v) For fiscal years after 2011, seventy-eight and 67193

nine-tenths per cent in the case of inventory property tax value 67194
loss and one hundred per cent in the case of furniture and 67195
fixtures property tax value loss. 67196

(2) The greater of zero or the difference obtained by 67197
subtracting the state education aid offset determined under 67198
division (A)(1) of this section from the sum of the machinery and 67199
equipment fixed-rate levy loss, the inventory fixed-rate levy 67200
loss, and furniture and fixtures fixed-rate levy loss certified 67201
under division (F) of section 5751.20 of the Revised Code for all 67202
taxing districts in each school district and joint vocational 67203
school district. 67204

By the fifth day of August of each such year, the department 67205
of education shall certify the amount so determined under division 67206
(A)(1) of this section to the director of budget and management. 67207

(B) The department of education shall pay from the school 67208
district tangible property tax replacement fund to each school 67209
district and joint vocational school district all of the 67210
following: 67211

(1) On or before May 31, 2006, one-twelfth of the machinery 67212
and equipment fixed-rate levy loss plus one-thirtieth of the 67213
furniture and fixtures fixed-rate levy loss certified under 67214
division (F) of section 5751.20 of the Revised Code; 67215

(2) On or before August 31, 2006, November 30, 2006, and 67216
February 28, 2007, one-seventh of the machinery and equipment 67217
fixed-rate levy loss plus two-thirty-fifths of the furniture and 67218
fixtures fixed-rate levy loss certified under that division; 67219

(3) On or before May 31, 2007, one-sixth of the machinery and 67220
equipment fixed-rate levy loss plus one-fifteenth of the furniture 67221
and fixtures fixed-rate levy loss certified under that division; 67222

(4) On or before August 31, 2007, November 30, 2007, and 67223

<u>February 29, 2008, one-fourth of the amount determined under</u>	67224
<u>division (A)(2) of this section;</u>	67225
<u>(5) On or before May 31, 2008, the sum of one-fourth of the</u>	67226
<u>amount determined under division (A)(2) of this section and</u>	67227
<u>forty-four one-thousandths of the inventory fixed-rate levy loss</u>	67228
<u>certified under division (F) of section 5751.20 of the Revised</u>	67229
<u>Code;</u>	67230
<u>(6) On or before August 31, 2008, November 30, 2008, and</u>	67231
<u>February 28, 2009, the sum of: one-fourth of the amount determined</u>	67232
<u>by subtracting the amount determined under division (A)(1) of this</u>	67233
<u>section from the sum of the amount determined under division</u>	67234
<u>(D)(1) plus three-fifths of the amount determined under division</u>	67235
<u>(D)(3) of section 5751.20 of the Revised Code, but not less than</u>	67236
<u>zero; plus seventy-three one-thousandths of the inventory fixed</u>	67237
<u>rate levy loss certified under division (F) of section 5751.20 of</u>	67238
<u>the Revised Code;</u>	67239
<u>(7) On or before May 31, 2009, the sum of: one-fourth of the</u>	67240
<u>amount determined by subtracting the amount determined under</u>	67241
<u>division (A)(1) of this section from the sum of the amount</u>	67242
<u>determined under division (D)(1) plus four-fifths of the amount</u>	67243
<u>determined under division (D)(3) of section 5751.20 of the Revised</u>	67244
<u>Code, but not less than zero; plus eighty-eight one-thousandths of</u>	67245
<u>the inventory fixed-rate levy loss certified under division (F) of</u>	67246
<u>section 5751.20 of the Revised Code;</u>	67247
<u>(8) On or before August 31, 2009, November 30, 2009, and</u>	67248
<u>February 28, 2010, the sum of: one-fourth of the amount determined</u>	67249
<u>by subtracting the amount determined under division (A)(1) of this</u>	67250
<u>section from the sum of the amount determined under division</u>	67251
<u>(D)(1) plus four-fifths of the amount determined under division</u>	67252
<u>(D)(3) of section 5751.20 of the Revised Code, but not less than</u>	67253
<u>zero; plus one hundred forty-six one-thousandths of the inventory</u>	67254

<u>fixed-rate levy loss certified under division (F) of section</u>	67255
<u>5751.20 of the Revised Code;</u>	67256
<u>(9) On or before May 31, 2010, the sum of one-fourth of the</u>	67257
<u>amount determined by subtracting the amount determined under</u>	67258
<u>division (A)(1) of this section from the sum of the amounts</u>	67259
<u>determined under divisions (D)(1) and (3) of section 5751.20 of</u>	67260
<u>the Revised Code, but not less than zero, and one hundred</u>	67261
<u>thirty-two one-thousandths of the inventory fixed-rate levy loss</u>	67262
<u>certified under division (F) of section 5751.20 of the Revised</u>	67263
<u>Code;</u>	67264
<u>(10) On or before August 31, 2010, November 30, 2010, and</u>	67265
<u>February 28, 2011, the sum of one-fourth of the amount determined</u>	67266
<u>by subtracting the amount determined under division (A)(1) of this</u>	67267
<u>section from the sum of the amounts determined under divisions</u>	67268
<u>(D)(1) and (3) of section 5751.20 of the Revised Code, but not</u>	67269
<u>less than zero, and two hundred nineteen one-thousandths of the</u>	67270
<u>inventory fixed-rate levy loss certified under division (F) of</u>	67271
<u>section 5751.20 of the Revised Code;</u>	67272
<u>(11) On or before May 31, 2011, the sum of one-fourth of the</u>	67273
<u>amount determined by subtracting the amount determined under</u>	67274
<u>division (A)(1) of this section from the sum of the amounts</u>	67275
<u>determined under divisions (D)(1) and (3) of section 5751.20 of</u>	67276
<u>the Revised Code, but not less than zero, and one hundred fourteen</u>	67277
<u>one-thousandths of the inventory fixed-rate levy loss certified</u>	67278
<u>under division (F) of section 5751.20 of the Revised Code;</u>	67279
<u>(12) On or before August 31, 2011, November 30, 2011,</u>	67280
<u>February 29, 2012, and May 31, 2012, two hundred seventeen</u>	67281
<u>one-thousandths of the amount determined under division (A)(2) of</u>	67282
<u>this section;</u>	67283
<u>(13) On or before August 31, 2012, November 30, 2012,</u>	67284
<u>February 28, 2013, and May 31, 2013, one hundred eighty-three</u>	67285

<u>one-thousandths of the amount determined under division (A)(2) of this section;</u>	67286 67287
<u>(14) On or before August 31, 2013, November 30, 2013, February 28, 2014, and May 31, 2014, one hundred fifty one-thousandths of the amount determined under division (A)(2) of this section;</u>	67288 67289 67290 67291
<u>(15) On or before August 31, 2014, November 30, 2014, February 28, 2015, and May 31, 2015, one hundred seventeen one-thousandths of the amount determined in division (A)(2) of this section;</u>	67292 67293 67294 67295
<u>(16) On or before August 31, 2015, November 30, 2015, February 29, 2016, and May 31, 2016, eighty-three one-thousandths of the amount determined under division (A)(2) of this section;</u>	67296 67297 67298
<u>(17) On or before August 31, 2016, November 30, 2016, February 28, 2017, and May 31, 2017, fifty one-thousandths of the amount determined under division (A)(2) of this section;</u>	67299 67300 67301
<u>(18) On or before August 31, 2017, November 30, 2017, February 28, 2018, and May 31, 2018, seventeen one-thousandths of the amount determined in division (A)(2) of this section;</u>	67302 67303 67304
<u>(19) After May 31, 2018, no payments shall be made under this section.</u>	67305 67306
<u>The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under division (F) of section 5751.20 of the Revised Code.</u>	67307 67308 67309 67310 67311
<u>(C) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year</u>	67312 67313 67314 67315

2006 through fiscal year 2018. 67316

(D)(1) Not later than January 1, 2006, for each fixed-sum 67317
levy of each school district or joint vocational school district 67318
and for each year for which a determination is made under division 67319
(F) of section 5751.20 of the Revised Code that a fixed-sum levy 67320
loss is to be reimbursed, the tax commissioner shall certify to 67321
the department of education the fixed-sum levy loss determined 67322
under that division. The certification shall cover a time period 67323
sufficient to include all fixed-sum levies for which the 67324
commissioner made such a determination. The department shall pay 67325
from the school district property tax replacement fund to the 67326
school district or joint vocational school district one-fourth of 67327
the fixed-sum levy loss so certified for each year on or before 67328
the last day of May, August, and November of the current year and 67329
of February of the following year. 67330

(2) Beginning in 2006, by the first day of January of each 67331
year, the tax commissioner shall review the certification 67332
originally made under division (D)(1) of this section. If the 67333
commissioner determines that a debt levy that had been scheduled 67334
to be reimbursed in the current year has expired, a revised 67335
certification for that and all subsequent years shall be made to 67336
the department of education. 67337

(E) Beginning in September 2007 and through June 2018, the 67338
director of budget and management shall transfer from the school 67339
district tangible property tax replacement fund to the general 67340
revenue fund each of the following: 67341

(1) On the first day of September, the lesser of one-fourth 67342
of the amount certified for that fiscal year under division (A)(2) 67343
of this section or the balance in the school district tangible 67344
property tax replacement fund; 67345

(2) On the first day of December, the lesser of one-fourth of 67346

the amount certified for that fiscal year under division (A)(2) of 67347
this section or the balance in the school district tangible 67348
property tax replacement fund; 67349

(3) On the first day of March, the lesser of one-fourth of 67350
the amount certified for that fiscal year under division (A)(2) of 67351
this section or the balance in the school district tangible 67352
property tax replacement fund; 67353

(4) On the first day of June, the lesser of one-fourth of the 67354
amount certified for that fiscal year under division (A)(2) of 67355
this section or the balance in the school district tangible 67356
property tax replacement fund. 67357

(F) For each of the fiscal years 2006 through 2018, if the 67358
total amount in the school district tangible property tax 67359
replacement fund is insufficient to make all payments under 67360
divisions (B), (C), or (D) of this section at the times the 67361
payments are to be made, the director of budget and management 67362
shall transfer from the general revenue fund to the school 67363
district tangible property tax replacement fund the difference 67364
between the total amount to be paid and the amount in the school 67365
district tangible property tax replacement fund. For each fiscal 67366
year after 2018, at the time payments under division (D) of this 67367
section are to be made, the director of budget and management 67368
shall transfer from the general revenue fund to the school 67369
district property tax replacement fund the amount necessary to 67370
make such payments. 67371

(G) On the fifteenth day of June of 2006 through 2011, the 67372
director of budget and management may transfer any balance in the 67373
school district tangible property tax replacement fund to the 67374
general revenue fund. At the end of fiscal years 2012 through 67375
2018, any balance in the school district tangible property tax 67376
replacement fund shall remain in the fund to be used in future 67377

fiscal years for school purposes. 67378

(H) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows: 67379
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(1) For a merger of two or more districts, the machinery and equipment, inventory, and furniture and fixture fixed-rate levy losses and the fixed-sum levy losses of the successor district shall be equal to the sum of the machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses as determined in section 5751.20 of the Revised Code, for each of the districts involved in the merger. 67386
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(2) If property is transferred from one district to a previously existing district, the amount of machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses that shall be transferred to the recipient district shall be an amount equal to the total machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses times a fraction, the numerator of which is the value of business tangible personal property in the land being transferred in the most recent year for which data are available, and the denominator of which is the total value of business tangible personal property in the district from which the land is being transferred in the most recent year for which data are available. 67393
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(3) After December 31, 2004, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any machinery and equipment, inventory, or 67405
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furniture and fixtures fixed-rate levy losses and the districts 67409
from which the property was transferred shall have no reduction in 67410
their machinery and equipment, inventory, and furniture and 67411
fixtures fixed-rate levy losses. 67412

(4) If the recipient district under division (H)(2) of this 67413
section or the newly created district under divisions (H)(3) of 67414
this section is assuming debt from one or more of the districts 67415
from which the property was transferred and any of the districts 67416
losing the property had fixed-sum levy losses, the department of 67417
education, in consultation with the tax commissioner, shall make 67418
an equitable division of the fixed-sum levy loss reimbursements. 67419

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 67420
commissioner shall compute the payments to be made to each local 67421
taxing unit for each year according to divisions (A)(1), (2), and 67422
(3) of this section, and shall distribute the payments in the 67423
manner prescribed by division (C) of this section. The calculation 67424
of the fixed-sum levy loss shall cover a time period sufficient to 67425
include all fixed-sum levies for which the commissioner 67426
determined, pursuant to division (E) of section 5751.20 of the 67427
Revised Code, that a fixed-sum levy loss is to be reimbursed. 67428

(1) Except as provided in division (A)(3) of this section, 67429
for machinery and equipment, inventory, and furniture and fixtures 67430
fixed-rate levy losses determined under division (D) of section 67431
5751.20 of the Revised Code, payments shall be made in each of the 67432
following years at the following percentages of the machinery and 67433
equipment, inventory, and furniture and fixtures fixed-rate levy 67434
losses: 67435

<u>Year</u>	<u>Percentage for</u>	<u>Percentage for</u>	<u>Percentage for</u>	
	<u>machinery and</u>	<u>inventory</u>	<u>furniture and</u>	
	<u>equipment</u>		<u>fixtures</u>	
<u>2006</u>	<u>50%</u>	<u>0%</u>	<u>20%</u>	67437

<u>2007</u>	<u>100%</u>	<u>0%</u>	<u>40%</u>	67438
<u>2008</u>	<u>100%</u>	<u>26.3%</u>	<u>60%</u>	67439
<u>2009</u>	<u>100%</u>	<u>52.6%</u>	<u>80%</u>	67440
<u>2010</u>	<u>100%</u>	<u>78.9%</u>	<u>100%</u>	67441
<u>2011</u>	<u>86.7%</u>	<u>68.4%</u>	<u>86.7%</u>	67442
<u>2012</u>	<u>73.3%</u>	<u>57.9%</u>	<u>73.3%</u>	67443
<u>2013</u>	<u>60%</u>	<u>47.3%</u>	<u>60%</u>	67444
<u>2014</u>	<u>46.7%</u>	<u>36.8%</u>	<u>46.7%</u>	67445
<u>2015</u>	<u>33.3%</u>	<u>26.3%</u>	<u>33.3%</u>	67446
<u>2016</u>	<u>20%</u>	<u>15.8%</u>	<u>20%</u>	67447
<u>2017</u>	<u>6.7%</u>	<u>5.3%</u>	<u>6.7%</u>	67448
<u>2018 and</u> <u>thereafter</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	67449

(2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter. 67450
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(3) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used. No payments shall be made for such levies after calendar year 2017. 67454
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(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made. 67461
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(C) Payments to local taxing units required to be made under 67469
division (A) of this section shall be paid from the local 67470
government tangible property tax replacement fund to the county 67471
undivided income tax fund in the proper county treasury. Beginning 67472
in May 2006, one-fourth of the amount certified under that 67473
division shall be paid by the last day of February, May, August, 67474
and November. The county treasurer shall distribute amounts 67475
determined under division (A) of this section to the proper local 67476
taxing unit as if they had been levied and collected as taxes, and 67477
the local taxing unit shall apportion the amounts so received 67478
among its funds in the same proportions as if those amounts had 67479
been levied and collected as taxes. 67480

(D) For each of the fiscal years 2006 through 2018, if the 67481
total amount in the local government tangible property tax 67482
replacement fund is insufficient to make all payments under 67483
division (C) of this section at the times the payments are to be 67484
made, the director of budget and management shall transfer from 67485
the general revenue fund to the local government tangible property 67486
tax replacement fund the difference between the total amount to be 67487
paid and the amount in the local government tangible property tax 67488
replacement fund. For each fiscal year after 2018, at the time 67489
payments under division (A)(2) of this section are to be made, the 67490
director of budget and management shall transfer from the general 67491
revenue fund to the local government property tax replacement fund 67492
the amount necessary to make such payments. 67493

(E) On the fifteenth day of June of each year from 2006 67494
through 2018, the director of budget and management may transfer 67495
any balance in the local government tangible property tax 67496
replacement fund to the general revenue fund. 67497

(F) If all or a part of the territories of two or more local 67498
taxing units are merged, or unincorporated territory of a township 67499
is annexed by a municipal corporation, the tax commissioner shall 67500

adjust the payments made under this section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made. 67501
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Sec. 5751.31. Notwithstanding any section of law to the contrary, the tax commissioner may issue one or more final determinations under section 5703.60 of the Revised Code for which any appeal must be made directly to the supreme court within thirty days after the date the commissioner issued the determination if the primary issue raised by the petitioner is an issue arising under Section 3, 5a, or 13 of Article XII, Ohio Constitution. Such final determination shall clearly indicate that any appeal thereof must be made directly to the supreme court within the thirty-day period prescribed in this division. 67508
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Sec. 5751.50. (A) For tax years beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. A credit claimed in tax year 2008 may not be applied against the tax otherwise due for a quarterly tax reporting period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any quarterly tax reporting period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. 67518
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(B) For tax years beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in tax year 2008 may not be applied against the tax otherwise due under this chapter for a quarterly tax reporting period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any quarterly tax reporting period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5751.51. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) For tax years beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to seven per cent of the excess of (a) qualified research expenses incurred in this state by the taxpayer in the tax year for which the credit is claimed over (b) the taxpayer's average annual qualified research expenses incurred in this state for the three preceding tax years.

(2) The taxpayer shall claim the credit allowed under division (B)(1) of this section in the order required by section 5751.98 of the Revised Code. A credit claimed in tax year 2008 may not be applied against the tax otherwise due under this chapter for a quarterly tax reporting period beginning before July 1, 2008. Any credit amount in excess of the tax due under section

5751.03 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under that section, may be carried forward for seven tax years, but the amount of the excess credit claimed against the tax for any quarterly tax reporting period shall be deducted from the balance carried forward to the next quarterly tax reporting period. 67563
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(3) No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 of the Revised Code, except to the extent the credit was not applied against such tax. 67570
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Sec. 5751.52. (A) As used in this section: 67574

(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by this chapter. 67575
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(2) "Qualified research and development loan payments" has the same meaning as in section 166.21 of the Revised Code. 67579
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(3) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 67581
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(B) For tax years beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to a borrower's qualified research and development loan payments made during the tax year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless the taxpayer has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under 67583
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section 5151.98 of the Revised Code. A credit claimed in tax year 67593
2008 may not be applied against the tax otherwise due under this 67594
chapter for a quarterly tax reporting period beginning before July 67595
1, 2008. No credit shall be allowed under this chapter if the 67596
credit was available against the tax imposed by section 5733.06 or 67597
5747.02 of the Revised Code except to the extent the credit was 67598
not applied against such tax. The credit, to the extent it exceeds 67599
the taxpayer's tax liability for a quarterly tax reporting period 67600
after allowance for any other credits that precede the credit 67601
under this section in that order, shall be carried forward to the 67602
next succeeding quarterly tax reporting period or periods, but the 67603
amount of the excess credit claimed against the tax for any 67604
quarterly tax reporting period shall be deducted from the balance 67605
carried forward to the next quarterly tax reporting period. 67606

(C) A borrower entitled to a credit under this section may 67607
assign the credit, or a portion thereof, to any of the following: 67608

(1) A related member of that borrower; 67609

(2) The owner or lessee of the eligible research and 67610
development project; 67611

(3) A related member of the owner or lessee of the eligible 67612
research and development project. 67613

A borrower making an assignment under this division shall 67614
provide written notice of the assignment to the tax commissioner 67615
and the director of development, in such form as the commissioner 67616
prescribes, before the credit that was assigned is used. The 67617
assignor may not claim the credit to the extent it was assigned to 67618
an assignee. The assignee may claim the credit only to the extent 67619
the assignor has not claimed it. 67620

(D) If any taxpayer is a partner in a partnership or a member 67621
in a limited liability company treated as a partnership for 67622
federal income tax purposes, the taxpayer shall be allowed the 67623

taxpayer's distributive or proportionate share of the credit 67624
available through the partnership or limited liability company. 67625

Sec. 5751.98. (A) To provide a uniform procedure for 67626
calculating the amount of tax due under this chapter, a taxpayer 67627
shall claim any credits to which it is entitled in the following 67628
order: 67629

(1) The nonrefundable jobs retention credit under division 67630
(B) of section 5751.50 of the Revised Code; 67631

(2) The nonrefundable credit for qualified research expenses 67632
under division (B) of section 5751.51 of the Revised Code; 67633

(3) The nonrefundable credit for a borrower's qualified 67634
research and development loan payments under division (B) of 67635
section 5751.52 of the Revised Code; 67636

(4) The refundable jobs creation credit under division (A) of 67637
section 5751.50 of the Revised Code. 67638

(B) For any credit except the credit enumerated in division 67639
(A)(4) of this section, the amount of the credit for a tax period 67640
shall not exceed the tax due after allowing for any other credit 67641
that precedes it in the order required under this section. Any 67642
excess amount of a particular credit may be carried forward if 67643
authorized under the section creating the credit. 67644

Sec. 5751.99. (A) Whoever files a fraudulent refund claim 67645
under section 5751.08 of the Revised Code shall be fined the 67646
greater of not more than one thousand dollars or the amount of the 67647
fraudulent refund requested or imprisoned not more than sixty 67648
days, or both. 67649

(B) Except as provided in this section, whoever violates any 67650
section of this chapter, or any rule adopted by the tax 67651
commissioner under this chapter, shall be fined not more than five 67652

hundred dollars or imprisoned not more than thirty days, or both. 67653

(C) The penalties provided in this section are in addition to 67654
any penalties imposed by the tax commissioner under section 67655
5751.06 of the Revised Code. 67656

Sec. 5919.31. (A) There is hereby created in the state 67657
treasury the national guard benefit fund, which shall consist of 67658
such transfers of moneys or receipts as are made in accordance 67659
with law. 67660

(B) If an active duty member of the Ohio national guard 67661
chooses to purchase life insurance pursuant to the 67662
"Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. 67663
(1965), 38 U.S.C. 1965 et seq., the adjutant general shall 67664
reimburse the member in an amount equal to the premium the member 67665
paid pursuant to the act from the national guard benefit fund. 67666

(C) The adjutant general may request additional money from 67667
the controlling board if the money in the fund is not sufficient 67668
to reimburse the members for life insurance premiums pursuant to 67669
this section. 67670

(D) The adjutant general may adopt rules pursuant to Chapter 67671
119. of the Revised Code to implement the requirements of this 67672
section. 67673

(E) As used in this section, "active duty member" means a 67674
member of the Ohio national guard under active duty pursuant to an 67675
executive order of the president of the United States, an act of 67676
the congress of the United States, or section 5919.29 or 5923.21 67677
of the Revised Code. 67678

Sec. 5919.33. ~~Upon certification of availability of funds by~~ 67679
~~the director of budget and management, the~~ (A) There is hereby 67680
created the national guard benefit fund, which shall consist of 67681

transfers of moneys and receipts into the fund made in accordance 67682
with law. 67683

(B) The adjutant general shall pay a death benefit of ~~twenty~~ 67684
one hundred thousand dollars from the ~~appropriations for operating~~ 67685
~~expenses~~ national guard benefit fund to the beneficiary or 67686
beneficiaries of any active duty member of the Ohio national guard 67687
who dies while performing ~~state~~ active duty ~~under orders issued by~~ 67688
~~the adjutant general on behalf of the governor~~, if the beneficiary 67689
or beneficiaries has or have been so designated in a written 67690
statement as prescribed by the adjutant general. 67691

(C) As used in this section, "active duty member" means a 67692
member of the Ohio national guard under active duty pursuant to an 67693
executive order of the president of the United States, an act of 67694
the congress of the United States, or section 5919.29 or 5923.21 67695
of the Revised Code. 67696

Sec. 5919.341. There is hereby created in the state treasury 67697
the national guard scholarship reserve fund. Not later than the 67698
first day of September of each fiscal year, the Ohio board of 67699
regents shall certify to the director of budget and management the 67700
unencumbered balance of the general revenue fund appropriations 67701
made in the immediately preceding fiscal year for purposes of the 67702
Ohio national guard scholarship program created under division (B) 67703
of section 5919.34 of the Revised Code. Upon receipt of the 67704
certification, the director may transfer an amount not exceeding 67705
the certified amount from the general revenue fund to the national 67706
guard scholarship reserve fund. Moneys in the national guard 67707
scholarship reserve fund shall be used to pay scholarship 67708
obligations in excess of the general revenue fund appropriations 67709
made for that purpose. Upon request of the adjutant general, the 67710
Ohio board of regents shall seek controlling board approval to 67711
establish appropriations as necessary. 67712

The director may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

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Sec. 5920.01. (A) The governor shall organize and maintain within this state on a cadre or reserve basis military forces capable of being expanded and trained to defend this state whenever the Ohio national guard, or a part thereof, is employed so as to leave this state without adequate defense. In case of an emergency proclaimed by the president, or the Congress of the United States, or the governor, or caused by enemy action or imminent danger thereof, the governor, as commander in chief, shall expand such forces as the exigency of the occasion requires. Such forces shall be organized and maintained under regulations which shall not be inconsistent with such regulations as the secretary of defense prescribes for discipline and training and shall be composed of officers commissioned and assigned, and such able-bodied citizens of the state as are accepted therein. Such forces shall be equipped with suitable uniforms not in violation of federal laws or contrary to the regulations of the secretary of defense. Such forces shall be known as the Ohio military reserve. During the period of organization on a cadre or reserve basis the commander in chief may fix lesser rates of pay for armory drill purposes or for service in encampments and maneuvers. In the event that the regulations of the department of defense are modified so as to recognize the Ohio military reserve as a part of the Ohio national guard not subject to induction into federal service, the laws pertaining to the Ohio national guard shall apply to the Ohio military reserve and it shall be known as a component of the Ohio national guard.

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(B) The commander of the Ohio military reserve shall report all expenditures and the use of all funds by the Ohio military

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reserve to the general assembly. The commander annually shall 67744
deliver the report, in writing, within three months of the end of 67745
the state fiscal year. 67746

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 67747
of this section, on and after January 1, 1994, no person shall 67748
operate or maintain a public water system in this state without a 67749
license issued by the director of environmental protection. A 67750
person who operates or maintains a public water system on January 67751
1, 1994, shall obtain an initial license under this section in 67752
accordance with the following schedule: 67753

(1) If the public water system is a community water system, 67754
not later than January 31, 1994; 67755

(2) If the public water system is not a community water 67756
system and serves a nontransient population, not later than 67757
January 31, 1994; 67758

(3) If the public water system is not a community water 67759
system and serves a transient population, not later than January 67760
31, 1995. 67761

A person proposing to operate or maintain a new public water 67762
system after January 1, 1994, in addition to complying with 67763
section 6109.07 of the Revised Code and rules adopted under it, 67764
shall submit an application for an initial license under this 67765
section to the director prior to commencing operation of the 67766
system. 67767

A license or license renewal issued under this section shall 67768
be renewed annually. Such a license or license renewal shall 67769
expire on the thirtieth day of January in the year following its 67770
issuance. A license holder that proposes to continue operating the 67771
public water system for which the license or license renewal was 67772
issued shall apply for a license renewal at least thirty days 67773

prior to that expiration date. 67774

The director shall adopt, and may amend and rescind, rules in 67775
accordance with Chapter 119. of the Revised Code establishing 67776
procedures governing and information to be included on 67777
applications for licenses and license renewals under this section. 67778
Through June 30, ~~2006~~ 2008, each application shall be accompanied 67779
by the appropriate fee established under division (M) of section 67780
3745.11 of the Revised Code, provided that an applicant for an 67781
initial license who is proposing to operate or maintain a new 67782
public water system after January 1, 1994, shall submit a fee that 67783
equals a prorated amount of the appropriate fee established under 67784
that division for the remainder of the licensing year. 67785

(B) Not later than thirty days after receiving a completed 67786
application and the appropriate license fee for an initial license 67787
under division (A) of this section, the director shall issue the 67788
license for the public water system. Not later than thirty days 67789
after receiving a completed application and the appropriate 67790
license fee for a license renewal under division (A) of this 67791
section, the director shall do one of the following: 67792

(1) Issue the license renewal for the public water system; 67793

(2) Issue the license renewal subject to terms and conditions 67794
that the director determines are necessary to ensure compliance 67795
with this chapter and rules adopted under it; 67796

(3) Deny the license renewal if the director finds that the 67797
public water system was not operated in substantial compliance 67798
with this chapter and rules adopted under it. 67799

(C) The director may suspend or revoke a license or license 67800
renewal issued under this section if the director finds that the 67801
public water system was not operated in substantial compliance 67802
with this chapter and rules adopted under it. The director shall 67803
adopt, and may amend and rescind, rules in accordance with Chapter 67804

119. of the Revised Code governing such suspensions and 67805
revocations. 67806

(D)(1) As used in division (D) of this section, "church" 67807
means a fellowship of believers, congregation, society, 67808
corporation, convention, or association that is formed primarily 67809
or exclusively for religious purposes and that is not formed or 67810
operated for the private profit of any person. 67811

(2) This section does not apply to a church that operates or 67812
maintains a public water system solely to provide water for that 67813
church or for a campground that is owned by the church and 67814
operated primarily or exclusively for members of the church and 67815
their families. A church that, on or before March 5, 1996, has 67816
obtained a license under this section for such a public water 67817
system need not obtain a license renewal under this section. 67818

(E) This section does not apply to any public or nonpublic 67819
school that meets minimum standards of the state board of 67820
education that operates or maintains a public water system solely 67821
to provide water for that school. 67822

Sec. 6111.02. As used in this section and sections 6111.021 67823
to 6111.028 and 6111.0210 to 6111.0213 of the Revised Code: 67824

(A) "Category 1 wetland," "category 2 wetland," or "category 67825
3 wetland" means a category 1 wetland, category 2 wetland, or 67826
category 3 wetland, respectively, as described in rule 3745-1-54 67827
of the Administrative Code, as that rule existed on ~~the effective~~ 67828
~~date of this section~~ July 17, 2001, and as determined to be a 67829
category 1, category 2, or category 3 wetland, respectively, 67830
through application of the "Ohio rapid assessment method for 67831
wetlands version 5.0," including the Ohio rapid assessment method 67832
for wetlands version 5.0 quantitative score calibration dated 67833
August 15, 2000, unless an application for a section 401 water 67834

quality certification was submitted prior to February 28, 2001, in 67835
which case the applicant for the permit may elect to proceed in 67836
accordance with Ohio rapid assessment method for wetlands version 67837
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(B) "Creation" means the establishment of a wetland where one 67839
did not formerly exist and that involves wetland construction on 67840
nonhydic soils. 67841

(C) "Discharge of dredged material" has the same meaning as 67842
in 33 C.F.R 323.2 as effective February 16, 2001. 67843

(D) "Dredged material" or "dredge material" means material 67844
that is excavated or dredged from a wetland, including an isolated 67845
wetland, or a stream. "Dredged material" does not include material 67846
resulting from normal farming, silviculture, and ranching 67847
activities, such as plowing, cultivating, seeding, and harvesting, 67848
for production of food, fiber, and forest products. 67849

(E) "Enhancement" means activities conducted in an existing 67850
wetland to improve or repair existing or natural wetland functions 67851
and values of that wetland. 67852

~~(D)~~(F) "Ephemeral stream" means a stream that flows only in 67853
direct response to precipitation in the immediate watershed or in 67854
response to the melting of a cover of snow and ice and that has 67855
channel bottom that is always above the local water table. 67856

(G) "Fill material" means any material that is used to fill 67857
an aquatic area, to replace an aquatic area with dry land, or to 67858
change the bottom elevation of a wetland or stream for any purpose 67859
and that consists of suitable material that is free from toxic 67860
contaminants in other than trace quantities. "Fill material" does 67861
not include either of the following: 67862

(1) Material resulting from normal farming, silviculture, and 67863
ranching activities, such as plowing, cultivating, seeding, and 67864
harvesting, for the production of food, fiber, and forest 67865

products; 67866

(2) Material placed for the purpose of maintenance of 67867
existing structures, including emergency reconstruction of 67868
recently damaged parts of currently serviceable structures such as 67869
dikes, dams, levees, groins, riprap, breakwaters, causeways, and 67870
bridge abutments or approaches, and transportation structures. 67871

~~(E)~~(H) "Filling" means the addition of fill material into a 67872
wetland or stream for the purpose of creating upland, changing the 67873
bottom elevation of the wetland or stream, or creating 67874
impoundments of water. "Filling" includes, without limitation, the 67875
placement of the following in wetlands or streams: fill material 67876
that is necessary for the construction of any structure; 67877
structures or impoundments requiring rock, sand, dirt, or other 67878
material for its construction; site-development fills for 67879
recreational, industrial, commercial, residential, or other uses; 67880
causeways or road fills; dams and dikes; artificial islands, 67881
property protection, or reclamation devices such as riprap, 67882
groins, seawalls, breakwalls, and bulkheads and fills; beach 67883
nourishment; levees; sanitary landfills; fill material for 67884
structures such as sewage treatment facilities, intake and outfall 67885
pipes associated with power plants, and underwater utility lines; 67886
and artificial reefs. 67887

~~(F)~~(I) "Intermittent stream" means a stream that is below the 67888
local water table and flows for at least a part of each year and 67889
that obtains its flow from both surface runoff and ground water 67890
discharge. 67891

(J) "Isolated wetland" means a wetland that is not subject to 67892
regulation under the Federal Water Pollution Control Act. 67893

~~(G)~~(K) "Mitigation" means the restoration, creation, 67894
enhancement, or, in exceptional circumstances, preservation of 67895
wetlands expressly for the purpose of compensating for wetland 67896

impacts. 67897

~~(H)~~(L) "Mitigation bank service area" means the designated 67898
area where a mitigation bank can reasonably be expected to provide 67899
appropriate compensation for impacts to wetlands and other aquatic 67900
resources and that is designated as such in accordance with the 67901
process established in the "Federal Guidance for the 67902
Establishment, Use and Operation of Mitigation Banks (1995)," 60 67903
FR 58605. 67904

~~(I)~~(M) "Off-site mitigation" means wetland restoration, 67905
creation, enhancement, or preservation occurring farther than one 67906
mile from a project boundary, but within the same watershed. 67907

~~(J)~~(N) "On-site mitigation" means wetland restoration, 67908
creation, enhancement, or preservation occurring within and not 67909
more than one mile from the project boundary and within the same 67910
watershed. 67911

~~(K)~~(O) "Perennial stream" means a stream or a part of a 67912
stream that flows continuously during all of the calendar year as 67913
a result of ground water discharge or surface water runoff. 67914
"Perennial stream" does not include an intermittent stream or an 67915
ephemeral stream. 67916

(P) "Practicable" means available and capable of being 67917
executed with existing technology and without significant adverse 67918
effect on the economic feasibility of the project in light of the 67919
overall project purposes and in consideration of the relative 67920
environmental benefit. 67921

~~(L)~~(O) "Preservation" means the protection of ecologically 67922
important wetlands in perpetuity through the implementation of 67923
appropriate legal mechanisms to prevent harm to the wetlands. 67924
"Preservation" may include protection of adjacent upland areas as 67925
necessary to ensure protection of a wetland. 67926

~~(M)~~(R) "Restoration" means the reestablishment of a 67927

previously existing wetland at a site where it has ceased to exist. 67928
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~~(N)~~(S) "Section 401 water quality certification" means 67930
certification pursuant to section 401 of the Federal Water 67931
Pollution Control Act and this chapter and rules adopted under it 67932
that any discharge, as set forth in section 401, will comply with 67933
sections 301, 302, 303, 306, and 307 of the Federal Water 67934
Pollution Control Act. 67935

(T) "State isolated wetland permit" means a permit issued in 67936
accordance with sections 6111.02 to 6111.027 of the Revised Code 67937
authorizing the filling of an isolated wetland. 67938

~~(O)~~(U) "Watershed" means a common surface drainage area 67939
corresponding to one from the list of thirty-seven adapted from 67940
the forty-four cataloging units as depicted on the hydrologic unit 67941
map of Ohio, United States geological survey, 1988, and as 67942
described in division (F)(2) of rule 3745-1-54 of the 67943
Administrative Code or as otherwise shown on map number 1 found in 67944
rule 3745-1-54 of the Administrative Code. "Watershed" is limited 67945
to those parts of the cataloging units that geographically lie 67946
within the borders of this state. 67947

~~(P)~~(V) "Wetlands" means those areas that are inundated or 67948
saturated by surface or ground water at a frequency and duration 67949
that are sufficient to support, and that under normal 67950
circumstances do support, a prevalence of vegetation typically 67951
adapted for life in saturated soil conditions. "Wetlands" includes 67952
swamps, marshes, bogs, and similar areas that are delineated in 67953
accordance with the 1987 United States army corps of engineers 67954
wetland delineation manual and any other procedures and 67955
requirements adopted by the United States army corps of engineers 67956
for delineating wetlands. 67957

~~(Q)~~(W) "Wetland mitigation bank" means a site where wetlands 67958

have been restored, created, enhanced, or, in exceptional 67959
circumstances, preserved expressly for the purpose of providing 67960
mitigation for impacts to wetlands and that has been approved in 67961
accordance with the process established in the "Federal Guidance 67962
for the Establishment, Use and Operation of Mitigation Banks 67963
(1995)," 60 FR 58605. 67964

Sec. 6111.0210. (A) Sections 6111.0210 and 6111.0211 of the 67965
Revised Code apply to wetlands that are not isolated wetlands. 67966

(B) The discharge of dredge or fill material into a category 67967
1 or a category 2 wetland of three acres or less or such a 67968
discharge impacting a portion of an ephemeral stream of one 67969
thousand linear feet or less, a portion of an intermittent stream 67970
of five hundred linear feet or less, or a portion of a perennial 67971
stream of one hundred linear feet or less shall require a section 67972
401 water quality certification issued by the director of 67973
environmental protection and shall be subject to level one review 67974
requirements established under division (C) of this section. 67975

(C) Level one review shall apply only to the discharge of 67976
dredge or fill material into a category 1 or category 2 wetland or 67977
an ephemeral, intermittent, or perennial stream, as applicable, as 67978
described in division (B) of this section. A level one review 67979
shall require, and is limited to, the submission of a pre-activity 67980
notice that includes an application; an acceptable delineation; a 67981
wetland or stream categorization, as applicable; a description of 67982
the project; a description of the acreage of the wetland or of the 67983
linear footage of the stream, as applicable, that will be subject 67984
to filling or impacts; site photographs; and a mitigation proposal 67985
for the impact to the wetland or stream, as applicable that 67986
includes both of the following: 67987

(1) The submission of an analysis of technically feasible and 67988
economically reasonable on-site alternatives to the proposed 67989

dredging or filling of the wetland or stream, as applicable, that 67990
would have a less adverse impact on the wetland ecosystem; 67991

(2) The submission of information indicating whether high 67992
quality waters, as defined in rule 3745-1-05 of the Administrative 67993
Code, are to be avoided by the proposed dredging or filling of the 67994
wetland or stream, as applicable. 67995

(D) The director shall grant or deny a section 401 water 67996
quality certification for the proposed dredging or filling of a 67997
wetland or stream that is subject to level one review not later 67998
than one hundred twenty days after receipt of an application for 67999
the certification. The director shall issue a section 401 water 68000
quality certification after a level one review unless the director 68001
determines that the applicant has failed to demonstrate all of the 68002
following: 68003

(1) There is no technically feasible and economically 68004
reasonable on-site alternative to the proposed dredging or filling 68005
that would have a less adverse impact on the wetland or stream 68006
ecosystem. 68007

(2) Reasonable buffers have been provided for any wetland or 68008
stream that will be avoided at the site where the proposed 68009
dredging or filling will take place. 68010

(3) The wetland or stream is not locally or regionally scarce 68011
within the watershed in which it is located and does not contain 68012
endangered species. 68013

(4) The impact would not result in significant degradation to 68014
the aquatic ecosystem. 68015

(5) Appropriate mitigation has been proposed for any 68016
unavoidable impacts. 68017

(6) Storm water and water quality controls will be installed 68018
to ensure that peak post-development rates of surface water runoff 68019

from the impacted wetland or stream do not greatly exceed the peak 68020
pre-development rates of runoff from the on-site wetland or 68021
stream. Water quality improvement measures shall be incorporated 68022
into the design of the storm water control measures that are 68023
required by laws of this state and federal law. 68024

(7) Any additional, technically feasible and economically 68025
reasonable, site-specific requirements that are determined 68026
necessary by the director to protect water quality have been 68027
satisfied. 68028

(E) Mitigation for the proposed dredging or filling of a 68029
wetland or stream that is subject to level one review shall be 68030
conducted by the applicant. Without the objection of the director 68031
and at the discretion of the applicant, the applicant shall 68032
conduct either on-site mitigation, mitigation at a wetland 68033
mitigation bank within the same United States army corps of 68034
engineers district as the location of the proposed dredging or 68035
filling of the wetland or stream, or off-site mitigation. 68036

Sec. 6111.0211. (A) The discharge of dredge or fill material 68037
into a category 1 or category 2 wetland of greater than three 68038
acres or a category 3 wetland or such a discharge impacting a 68039
portion of an ephemeral stream of greater than one thousand linear 68040
feet, a portion of an intermittent stream greater than five 68041
hundred linear feet, or a portion of a perennial stream of greater 68042
than one hundred linear feet shall require a section 401 water 68043
quality certification issued by the director of environmental 68044
protection and shall be subject to level two review requirements 68045
established under division (B) of this section. 68046

(B) Level two review shall apply to the discharge of dredge 68047
or fill material into a category 1, category 2, or category 3 68048
wetland or an ephemeral, intermittent, or perennial stream 68049
described in division (A) of this section and shall require all of 68050

the following:

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(1) All of the information required to be submitted with a pre-activity notice as described in division (C) of section 6111.0210 of the Revised Code;

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(2) A full antidegradation review conducted in accordance with rules adopted under section 6111.12 of the Revised Code;

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(3) The submission of information indicating whether high quality waters, as defined in rule 3745-1-05 of the Administrative Code, are to be avoided by the proposed filling of or impact to the wetland or stream, as applicable.

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(C) The director shall issue or deny a section 401 water quality certification for the proposed dredging or filling of a wetland or stream that is subject to level two review not later than one hundred and fifty days after the receipt of an application for the certification. The director shall not issue a section 401 water quality certification for the proposed dredging or filling of a wetland or stream that is subject to level two review unless the director determines that the applicant for the certification has demonstrated that the proposed dredging or filling will not prevent or interfere with the attainment or maintenance of applicable state water quality standards.

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(D)(1) Notwithstanding division (C) of this section, the director also may deny an application for a section 401 water quality certification submitted under this section if the director determines that the proposed dredging or filling of the wetland or stream will result in an adverse short-term or long-term impact on water quality.

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(2) The director may impose terms and conditions on a section 401 water quality certification issued under this section that are appropriate or necessary to ensure adequate protection of state water quality and to ensure compliance with this chapter and rules

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adopted under it. 68082

(3) Prior to the issuance of a section 401 water quality certification under this section, or prior to, during, or after the dredging or filling of the wetland or stream that is the subject of the certification, the director may require that the applicant or certification holder perform various environmental quality tests, including, without limitation, chemical analyses of water, sediment, or fill material and bioassays, in order to ensure adequate protection of water quality. 68083
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(E) Mitigation for the proposed dredging or filling of a wetland or stream that is subject to level two review shall be conducted by the applicant and shall occur in the following preferred order: 68091
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(1) Technically feasible and economically reasonable mitigation to the extent that the on-site mitigation would provide significant benefits to the aquatic habitat despite the modification of the site due to development; 68095
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(2) Technically feasible and economically reasonable off-site mitigation within the same watershed; 68099
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(3) If the proposed dredging or filling of the wetland or stream will take place within a mitigation bank service area, within that mitigation bank service area; 68101
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(4) If there is a significant ecological reason that the mitigation should not be limited to the watershed in which the wetland or stream is located and if the proposed mitigation will result in a substantially greater ecological benefit, in a watershed that is adjacent to the watershed in which the wetland or stream is located. 68104
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Sec. 6111.0212. (A) Not later than fifteen business days 68111

after the receipt of an application for a section 401 water 68112
quality certification, the director of environmental protection 68113
shall notify the applicant if the application is complete. If the 68114
application is not complete, the director shall include in the 68115
notice an itemized list of the information or materials that are 68116
necessary to complete the application. Time periods specified in 68117
statute or rule shall be tolled until the application is 68118
determined by the director to be complete. 68119

(B) Not later than twenty-one days after the receipt of a 68120
complete application, the director shall publish notice of its 68121
receipt in a newspaper of general circulation in the county in 68122
which the proposed project that is the subject of the application 68123
is to take place. The notice shall contain only the following: 68124

(1) The name of the applicant; 68125

(2) The proposed location of the project; 68126

(3) A description of the proposed impact; 68127

(4) The proposed mitigation of the impact. 68128

The director shall accept comments concerning the application 68129
and requests for a public hearing concerning the application for 68130
not more than fifteen days following the publication of notice 68131
concerning the application. 68132

(C) If the director receives a request for a public hearing 68133
on the application and the director determines that there is 68134
significant public interest in such a hearing as evidenced by the 68135
public comments received concerning the application and other 68136
requests for a public hearing on the application, the director or 68137
the director's representative shall conduct a public hearing 68138
concerning the application. Notice of the public hearing shall be 68139
published not later than thirty days prior to the date of the 68140
hearing in a newspaper of general circulation in the county in 68141

which the project that is the subject of the application is to 68142
take place. If a public hearing is requested concerning an 68143
application, the director shall accept comments concerning the 68144
application until five business days after the public hearing. A 68145
public hearing conducted under this division shall take place not 68146
later than seventy days after the receipt of the application. 68147

Sec. 6111.0213. All wetland, stream, or lake mitigation 68148
standards, scientific methods, processes, and other procedures or 68149
policies that are used by or approved for use by the director of 68150
environmental protection to evaluate or measure or to determine 68151
the approval or denial of a mitigation proposal shall be subject 68152
to sections 119.03 and 119.032 of the Revised Code before the 68153
standards, scientific methods, processes, or other procedures or 68154
policies have the force of law. Until that time, any such 68155
mitigation standards, scientific methods, processes, or any other 68156
procedures or policies that are used by or approved for use by the 68157
director to evaluate, measure, or determine the success, approval, 68158
or denial of a mitigation proposal, but that have not been subject 68159
to review under sections 119.03 and 119.032 of the Revised Code 68160
shall not be used as the basis for any certification or permit 68161
denial or as a standard applied to mitigation. All wetland 68162
restoration or creation performed for mitigation of wetland 68163
impacts authorized by the director shall result in the restoration 68164
or creation of wetlands that meet or exceed the quality of the 68165
wetland impacted as measured by the Ohio rapid assessment method. 68166

Section 101.02. That existing sections 9.06, 9.24, 9.833, 68167
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5703.70, 5703.80, 5705.02, 5705.091, 5705.214, 5705.29, 5705.391, 68242
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5727.82, 5727.84, 5727.85, 5728.01, 5728.02, 5728.03, 5728.04, 68246
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5743.02, 5743.025, 5743.03, 5743.04, 5743.05, 5743.071, 5743.08, 68251
5743.081, 5743.12, 5743.13, 5743.14, 5743.15, 5743.16, 5743.18, 68252
5743.19, 5743.20, 5743.32, 5743.33, 5743.34, 5743.35, 5743.51, 68253
5743.62, 5743.63, 5747.01, 5747.02, 5747.05, 5747.08, 5747.331, 68254
5747.70, 5747.80, 5747.98, 5749.02, 5919.33, 5920.01, 6109.21, and 68255
6111.02 of the Revised Code are hereby repealed. 68256

Section 105.01. That sections 181.53, 339.77, 742.36, 68257
1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 68258
3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.0213, 3353.02, 68259
3353.03, 3353.04, 3721.511, 3901.781, 3901.782, 3901.783, 68260
3901.784, 5101.751, 5101.753, 5101.754, 5111.041, 5111.205, 68261
5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 68262
5123.041, 5123.048, 5571.13, 5731.20, 5733.122, and 6111.028 of 68263
the Revised Code are hereby repealed. 68264

Section 120.07. That sections 3215.18, 5101.35, 5101.80, 68265
5101.801, and 5153.16 of the Revised Code be further amended to 68266

read as follows: 68267

Sec. 3125.18. A child support enforcement agency shall 68268
administer a Title IV-A program identified under division 68269
(A)~~(3)~~(4)(c) or ~~(e)~~(f) of section 5101.80 of the Revised Code that 68270
the department of job and family services provides for the agency 68271
to administer under the department's supervision pursuant to 68272
section 5101.801 of the Revised Code. 68273

Sec. 5101.35. (A) As used in this section: 68274

(1) "Agency" means the following entities that administer a 68275
family services program: 68276

(a) The department of job and family services; 68277

(b) A county department of job and family services; 68278

(c) A public children services agency; 68279

(d) A private or government entity administering, in whole or 68280
in part, a family services program for or on behalf of the 68281
department of job and family services or a county department of 68282
job and family services or public children services agency. 68283

(2) "Appellant" means an applicant, participant, former 68284
participant, recipient, or former recipient of a family services 68285
program who is entitled by federal or state law to a hearing 68286
regarding a decision or order of the agency that administers the 68287
program. 68288

(3) "Family services program" means assistance provided under 68289
a Title IV-A program as defined in section 5101.80 of the Revised 68290
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 68291
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 68292
Revised Code, other than assistance provided under section 5101.46 68293
of the Revised Code by the department of mental health, the 68294

department of mental retardation and developmental disabilities, a 68295
board of alcohol, drug addiction, and mental health services, or a 68296
county board of mental retardation and developmental disabilities. 68297

(B) Except as provided by division (G) of this section, an 68298
appellant who appeals under federal or state law a decision or 68299
order of an agency administering a family services program shall, 68300
at the appellant's request, be granted a state hearing by the 68301
department of job and family services. This state hearing shall be 68302
conducted in accordance with rules adopted under this section. The 68303
state hearing shall be tape-recorded, but neither the recording 68304
nor a transcript of the recording shall be part of the official 68305
record of the proceeding. A state hearing decision is binding upon 68306
the agency and department, unless it is reversed or modified on 68307
appeal to the director of job and family services or a court of 68308
common pleas. 68309

(C) Except as provided by division (G) of this section, an 68310
appellant who disagrees with a state hearing decision may make an 68311
administrative appeal to the director of job and family services 68312
in accordance with rules adopted under this section. This 68313
administrative appeal does not require a hearing, but the director 68314
or the director's designee shall review the state hearing decision 68315
and previous administrative action and may affirm, modify, remand, 68316
or reverse the state hearing decision. Any person designated to 68317
make an administrative appeal decision on behalf of the director 68318
shall have been admitted to the practice of law in this state. An 68319
administrative appeal decision is the final decision of the 68320
department and is binding upon the department and agency, unless 68321
it is reversed or modified on appeal to the court of common pleas. 68322

(D) An agency shall comply with a decision issued pursuant to 68323
division (B) or (C) of this section within the time limits 68324
established by rules adopted under this section. If a county 68325
department of job and family services or a public children 68326

services agency fails to comply within these time limits, the 68327
department may take action pursuant to section 5101.24 of the 68328
Revised Code. If another agency fails to comply within the time 68329
limits, the department may force compliance by withholding funds 68330
due the agency or imposing another sanction established by rules 68331
adopted under this section. 68332

(E) An appellant who disagrees with an administrative appeal 68333
decision of the director of job and family services or the 68334
director's designee issued under division (C) of this section may 68335
appeal from the decision to the court of common pleas pursuant to 68336
section 119.12 of the Revised Code. The appeal shall be governed 68337
by section 119.12 of the Revised Code except that: 68338

(1) The person may appeal to the court of common pleas of the 68339
county in which the person resides, or to the court of common 68340
pleas of Franklin county if the person does not reside in this 68341
state. 68342

(2) The person may apply to the court for designation as an 68343
indigent and, if the court grants this application, the appellant 68344
shall not be required to furnish the costs of the appeal. 68345

(3) The appellant shall mail the notice of appeal to the 68346
department of job and family services and file notice of appeal 68347
with the court within thirty days after the department mails the 68348
administrative appeal decision to the appellant. For good cause 68349
shown, the court may extend the time for mailing and filing notice 68350
of appeal, but such time shall not exceed six months from the date 68351
the department mails the administrative appeal decision. Filing 68352
notice of appeal with the court shall be the only act necessary to 68353
vest jurisdiction in the court. 68354

(4) The department shall be required to file a transcript of 68355
the testimony of the state hearing with the court only if the 68356
court orders the department to file the transcript. The court 68357

shall make such an order only if it finds that the department and
the appellant are unable to stipulate to the facts of the case and
that the transcript is essential to a determination of the appeal.
The department shall file the transcript not later than thirty
days after the day such an order is issued.

(F) The department of job and family services shall adopt
rules in accordance with Chapter 119. of the Revised Code to
implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The
rules shall include provisions regarding notice of eligibility
termination and the opportunity of an appellant appealing a
decision or order of a county department of job and family
services to request a county conference with the county department
before the state hearing is held.

(2) Administrative appeals under division (C) of this
section;

(3) Time limits for complying with a decision issued under
division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under
division (D) of this section.

(G) The department of job and family services may adopt rules
in accordance with Chapter 119. of the Revised Code establishing
an appeals process for an appellant who appeals a decision or
order regarding a Title IV-A program identified under division
(A)~~(3)~~(4)(c), (d), ~~or~~ or (f) of section 5101.80 of the
Revised Code that is different from the appeals process
established by this section. The different appeals process may
include having a state agency that administers the Title IV-A
program pursuant to an interagency agreement entered into under
section 5101.801 of the Revised Code administer the appeals
process.

(H) The requirements of Chapter 119. of the Revised Code 68389
apply to a state hearing or administrative appeal under this 68390
section only to the extent, if any, specifically provided by rules 68391
adopted under this section. 68392

Sec. 5101.80. (A) As used in this section and in section 68393
5101.801 of the Revised Code: 68394

(1) "County family services agency" has the same meaning as 68395
in section 307.981 of the Revised Code. 68396

(2) "State agency" has the same meaning as in section 9.82 of 68397
the Revised Code. 68398

(3) "Title IV-A administrative agency" means both of the 68399
following: 68400

(a) A county family services agency or state agency 68401
administering a Title IV-A program under the supervision of the 68402
department of job and family services; 68403

(b) A government agency or private, not-for-profit entity 68404
administering a project funded in whole or in part with funds 68405
provided under the Title IV-A demonstration program created under 68406
section 5101.803 of the Revised Code. 68407

(4) "Title IV-A program" means all of the following that are 68408
funded in part with funds provided under the temporary assistance 68409
for needy families block grant established by Title IV-A of the 68410
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 68411
amended: 68412

(a) The Ohio works first program established under Chapter 68413
5107. of the Revised Code; 68414

(b) The prevention, retention, and contingency program 68415
established under Chapter 5108. of the Revised Code; 68416

(c) A program established by the general assembly or an 68417

executive order issued by the governor that is administered or 68418
supervised by the department of job and family services pursuant 68419
to section 5101.801 of the Revised Code; 68420

(d) The kinship caregiver subsidy program created under 68421
section 5101.802 of the Revised Code; 68422

(e) The Title IV-A demonstration program created under 68423
section 5101.803 of the Revised Code; 68424

(f) A component of a Title IV-A program identified under 68425
divisions (A)~~(3)~~(4)(a) to ~~(d)~~(e) of this section that the Title 68426
IV-A state plan prepared under division (C)(1) of this section 68427
identifies as a component. 68428

(B) The department of job and family services shall act as 68429
the single state agency to administer and supervise the 68430
administration of Title IV-A programs. The Title IV-A state plan 68431
and amendments to the plan prepared under division (C) of this 68432
section are binding on ~~county family services agencies and state~~ 68433
~~agencies that administer a~~ Title IV-A program administrative 68434
agencies. No ~~county family services agency or state agency~~ 68435
~~administering a~~ Title IV-A program administrative agency may 68436
establish, by rule or otherwise, a policy governing ~~the~~ a Title 68437
IV-A program that is inconsistent with a Title IV-A program policy 68438
established, in rule or otherwise, by the director of job and 68439
family services. 68440

(C) The department of job and family services shall do all of 68441
the following: 68442

(1) Prepare and submit to the United States secretary of 68443
health and human services a Title IV-A state plan for Title IV-A 68444
programs; 68445

(2) Prepare and submit to the United States secretary of 68446
health and human services amendments to the Title IV-A state plan 68447

that the department determines necessary, including amendments 68448
necessary to implement Title IV-A programs identified in ~~division~~ 68449
divisions (A)~~(3)~~(4)(c), ~~(d)~~, and ~~(e)~~ to (f) of this section; 68450

(3) Prescribe forms for applications, certificates, reports, 68451
records, and accounts of ~~county family services agencies and state~~ 68452
~~agencies administering a Title IV-A program~~ administrative 68453
agencies, and other matters related to Title IV-A programs; 68454

(4) Make such reports, in such form and containing such 68455
information as the department may find necessary to assure the 68456
correctness and verification of such reports, regarding Title IV-A 68457
programs; 68458

(5) Require reports and information from each ~~county family~~ 68459
~~services agency and state agency administering a Title IV-A~~ 68460
~~program~~ administrative agency as may be necessary or advisable 68461
regarding ~~the a~~ Title IV-A program; 68462

(6) Afford a fair hearing in accordance with section 5101.35 68463
of the Revised Code to any applicant for, or participant or former 68464
participant of, a Title IV-A program aggrieved by a decision 68465
regarding the program; 68466

(7) Administer and expend, pursuant to Chapters 5104., 5107., 68467
and 5108. of the Revised Code and sections 5101.801 ~~and~~ 5101.802, 68468
and 5101.803 of the Revised Code, any sums appropriated by the 68469
general assembly for the purpose of those chapters and sections 68470
and all sums paid to the state by the secretary of the treasury of 68471
the United States as authorized by Title IV-A of the "Social 68472
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended; 68473

(8) Conduct investigations and audits as are necessary 68474
regarding Title IV-A programs; 68475

(9) Enter into reciprocal agreements with other states 68476
relative to the provision of Ohio works first and prevention, 68477

retention, and contingency to residents and nonresidents; 68478

(10) Contract with a private entity to conduct an independent 68479
on-going evaluation of the Ohio works first program and the 68480
prevention, retention, and contingency program. The contract must 68481
require the private entity to do all of the following: 68482

(a) Examine issues of process, practice, impact, and 68483
outcomes; 68484

(b) Study former participants of Ohio works first who have 68485
not participated in Ohio works first for at least one year to 68486
determine whether they are employed, the type of employment in 68487
which they are engaged, the amount of compensation they are 68488
receiving, whether their employer provides health insurance, 68489
whether and how often they have received benefits or services 68490
under the prevention, retention, and contingency program, and 68491
whether they are successfully self sufficient; 68492

(c) Provide the department with reports at times the 68493
department specifies. 68494

(11) Not later than January 1, 2001, and the first day of 68495
each January and July thereafter, prepare a report containing 68496
information on the following: 68497

(a) Individuals exhausting the time limits for participation 68498
in Ohio works first set forth in section 5107.18 of the Revised 68499
Code. 68500

(b) Individuals who have been exempted from the time limits 68501
set forth in section 5107.18 of the Revised Code and the reasons 68502
for the exemption. 68503

~~(12) Not later than January 1, 2001, and on a quarterly basis 68504
thereafter until December 1, 2003, prepare, to the extent the 68505
necessary data is available to the department, a report based on 68506
information determined under section 5107.80 of the Revised Code 68507~~

~~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.~~

~~(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 (c) of this section.~~

(D) The department shall provide copies of the reports it
receives under division (C)(10) of this section and prepares under
~~divisions~~ division (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.

(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. An authorized representative
of a government entity or private, not-for-profit entity
administering a project funded in whole or in part with funds
provided under the Title IV-A demonstration program shall have
access to all records and information bearing on the project for
the purpose of investigations conducted pursuant to this section.

Sec. 5101.801. (A) Except as otherwise provided by the law
enacted by the general assembly or executive order issued by the
governor establishing the Title IV-A program, a Title IV-A program
identified under division (A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section

5101.80 of the Revised Code shall provide benefits and services 68539
that are not "assistance" as defined in 45 C.F.R. 260.31(a) and 68540
are benefits and services that 45 C.F.R. 260.31(b) excludes from 68541
the definition of assistance. 68542

(B)(1) Except as otherwise provided by the law enacted by the 68543
general assembly or executive order issued by the governor 68544
establishing the Title IV-A program, the department of job and 68545
family services shall do either of the following regarding a Title 68546
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (e), or 68547
(f) of section 5101.80 of the Revised Code: 68548

~~(1)~~(a) Administer the program or supervise a county family 68549
services agency's administration of the program; 68550

~~(2)~~(b) Enter into an interagency agreement with a state 68551
agency for the state agency to administer the program under the 68552
department's supervision. 68553

(2) The department may enter into an agreement with a 68554
government entity and, to the extent permitted by federal law, a 68555
private, not-for-profit entity for the entity to receive funding 68556
for a project under the Title IV-A demonstration program. 68557

(C) ~~If the department administers or supervises the 68558
administration of a Title IV-A program identified under division 68559
(A)(3)(c) or (e) of section 5101.80 of the Revised Code pursuant 68560
to division (B)(1) of this section, the The department may adopt 68561
rules governing ~~the program~~ Title IV-A programs identified under 68562
divisions (A)(4)(c), (e), and (f) of section 5101.80 of the 68563
Revised Code. Rules governing financial and operational matters of 68564
the department or between the department and ~~the~~ county family 68565
services ~~agency~~ agencies shall be adopted as internal management 68566
rules adopted in accordance with section 111.15 of the Revised 68567
Code. All other rules shall be adopted in accordance with Chapter 68568
119. of the Revised Code. 68569~~

(D) If the department enters into an ~~interagency~~ agreement 68570
regarding a Title IV-A program identified under division 68571
(A) ~~(3)~~ (4) (c) ~~or~~, (e), or (f) of section 5101.80 of the Revised 68572
Code pursuant to division (B) (1)(b) or (2) of this section, the 68573
agreement shall include at least all of the following: 68574

(1) A requirement that the state agency or entity comply with 68575
the requirements for the program or project, including all of the 68576
following requirements established by federal statutes and 68577
regulations, state statutes and rules, the United States office of 68578
management and budget, and the Title IV-A state plan prepared 68579
under section 5101.80 of the Revised Code: 68580

(a) Eligibility; 68581

(b) Reports; 68582

(c) Benefits and services; 68583

(d) Use of funds; 68584

(e) Appeals for applicants for, and recipients and former 68585
recipients of, the benefits and services; 68586

(f) Audits. 68587

(2) A complete description of all of the following: 68588

(a) The benefits and services that the program or project is 68589
to provide; 68590

(b) The methods of program or project administration; 68591

(c) The appeals process under section 5101.35 of the Revised 68592
Code for applicants for, and recipients and former recipients of, 68593
the ~~program's~~ program or project's benefits and services; 68594

(d) Other ~~program and administrative~~ requirements that the 68595
department requires be included. 68596

(3) Procedures for the department to approve a policy, 68597
established by rule or otherwise, that the state agency or entity 68598

establishes for the program or project before the policy is 68599
established; 68600

(4) Provisions regarding how the department is to reimburse 68601
the state agency or entity for allowable expenditures under the 68602
program or project that the department approves, including all of 68603
the following: 68604

(a) Limitations on administrative costs; 68605

(b) The department, at its discretion, ~~withholding doing~~ 68606
either of the following: 68607

(i) Withholding no more than five per cent of the funds that 68608
the department would otherwise provide to the state agency or 68609
entity for the program or ~~charging project~~; 68610

(ii) Charging the state agency or entity for the costs to the 68611
department of performing, or contracting for the performance of, 68612
audits and other administrative functions associated with the 68613
program or project. 68614

(5) If the state agency or entity arranges by contract, 68615
grant, or other agreement for another entity to perform a function 68616
the state agency or entity would otherwise perform regarding the 68617
program or project, the state ~~agency's~~ agency or entity's 68618
responsibilities for both of the following: 68619

(a) Ensuring that the other entity complies with the 68620
~~interagency~~ agreement between the state agency or entity and 68621
department and federal statutes and regulations and state statutes 68622
and rules governing the use of funds for the program or project; 68623

(b) Auditing the other entity in accordance with requirements 68624
established by the United States office of management and budget. 68625

(6) The state ~~agency's~~ agency or entity's responsibilities 68626
regarding the prompt payment, including any interest assessed, of 68627
any adverse audit finding, final disallowance of federal funds, or 68628

other sanction or penalty imposed by the federal government, 68629
auditor of state, department, a court, or other entity regarding 68630
funds for the program or project; 68631

(7) Provisions for the department to terminate the 68632
~~interagency~~ agreement or withhold reimbursement from the state 68633
agency or entity if either of the following occur: 68634

(a) The federal government disapproves the program or project 68635
or reduces federal funds for the program or project; 68636

(b) The state agency or entity fails to comply with the terms 68637
of the ~~interagency~~ agreement. 68638

(8) Provisions for both of the following: 68639

(a) The department and state agency or entity determining the 68640
performance outcomes expected for the program or project; 68641

(b) An evaluation of the program or project to determine its 68642
success in achieving the performance outcomes determined under 68643
division (D)(8)(a) of this section. 68644

(E) To the extent consistent with the law enacted by the 68645
general assembly or executive order issued by the governor 68646
establishing the Title IV-A program and subject to the approval of 68647
the director of budget and management, the director of job and 68648
family services may terminate a Title IV-A program identified 68649
under division (A)~~(3)~~(4)(c) ~~or~~, (e), or (f) of section 5101.80 of 68650
the Revised Code or reduce funding for the program if the director 68651
of job and family services determines that federal or state funds 68652
are insufficient to fund the program. If the director of budget 68653
and management approves the termination or reduction in funding 68654
for such a program, the director of job and family services shall 68655
issue instructions for the termination or funding reduction. If a 68656
~~county family services agency or state~~ Title IV-A administrative 68657
~~agency is administering the program, the county family services~~ 68658
~~agency or state agency is bound by the termination or funding~~ 68659

reduction and shall comply with the director's instructions. 68660

(F) The director of job and family services may adopt 68661
internal management rules in accordance with section 111.15 of the 68662
Revised Code as necessary to implement this section. The rules are 68663
binding on each ~~county family services agency and state agency~~ 68664
~~administering, pursuant to this section, a Title IV-A program~~ 68665
~~identified in division (A)(3)(c) or (c) of section 5101.80 of the~~ 68666
~~Revised Code~~ administrative agency. 68667

Sec. 5153.16. (A) Except as provided in section 2151.422 of 68668
the Revised Code, in accordance with rules of the department of 68669
job and family services, and on behalf of children in the county 68670
whom the public children services agency considers to be in need 68671
of public care or protective services, the public children 68672
services agency shall do all of the following: 68673

(1) Make an investigation concerning any child alleged to be 68674
an abused, neglected, or dependent child; 68675

(2) Enter into agreements with the parent, guardian, or other 68676
person having legal custody of any child, or with the department 68677
of job and family services, department of mental health, 68678
department of mental retardation and developmental disabilities, 68679
other department, any certified organization within or outside the 68680
county, or any agency or institution outside the state, having 68681
legal custody of any child, with respect to the custody, care, or 68682
placement of any child, or with respect to any matter, in the 68683
interests of the child, provided the permanent custody of a child 68684
shall not be transferred by a parent to the public children 68685
services agency without the consent of the juvenile court; 68686

(3) Accept custody of children committed to the public 68687
children services agency by a court exercising juvenile 68688
jurisdiction; 68689

- (4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service; 68690
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- (5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child; 68694
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- (6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency; 68697
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- (7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment; 68703
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- (8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county; 68706
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- (9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision; 68709
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- (10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose; 68717
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(11) Enter into an agreement with the trustees of any 68720
district children's home, respecting the operation of the district 68721
children's home in cooperation with the other county boards in the 68722
district; 68723

(12) Cooperate with, make its services available to, and act 68724
as the agent of persons, courts, the department of job and family 68725
services, the department of health, and other organizations within 68726
and outside the state, in matters relating to the welfare of 68727
children, except that the public children services agency shall 68728
not be required to provide supervision of or other services 68729
related to the exercise of parenting time rights granted pursuant 68730
to section 3109.051 or 3109.12 of the Revised Code or 68731
companionship or visitation rights granted pursuant to section 68732
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 68733
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 68734
a common pleas court, pursuant to division (E)(6) of section 68735
3113.31 of the Revised Code, requires the provision of supervision 68736
or other services related to the exercise of the parenting time 68737
rights or companionship or visitation rights; 68738

(13) Make investigations at the request of any superintendent 68739
of schools in the county or the principal of any school concerning 68740
the application of any child adjudicated to be an abused, 68741
neglected, or dependent child for release from school, where such 68742
service is not provided through a school attendance department; 68743

(14) Administer funds provided under Title IV-E of the 68744
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 68745
amended, in accordance with rules adopted under section 5101.141 68746
of the Revised Code; 68747

(15) In addition to administering Title IV-E adoption 68748
assistance funds, enter into agreements to make adoption 68749
assistance payments under section 5153.163 of the Revised Code; 68750

(16) Implement a system of risk assessment, in accordance 68751
with rules adopted by the director of job and family services, to 68752
assist the public children services agency in determining the risk 68753
of abuse or neglect to a child; 68754

(17) Enter into a plan of cooperation with the board of 68755
county commissioners under section 307.983 of the Revised Code and 68756
comply with each fiscal agreement the board enters into under 68757
section 307.98 of the Revised Code that include family services 68758
duties of public children services agencies and contracts the 68759
board enters into under sections 307.981 and 307.982 of the 68760
Revised Code that affect the public children services agency; 68761

(18) Make reasonable efforts to prevent the removal of an 68762
alleged or adjudicated abused, neglected, or dependent child from 68763
the child's home, eliminate the continued removal of the child 68764
from the child's home, or make it possible for the child to return 68765
home safely, except that reasonable efforts of that nature are not 68766
required when a court has made a determination under division 68767
(A)(2) of section 2151.419 of the Revised Code; 68768

(19) Make reasonable efforts to place the child in a timely 68769
manner in accordance with the permanency plan approved under 68770
division (E) of section 2151.417 of the Revised Code and to 68771
complete whatever steps are necessary to finalize the permanent 68772
placement of the child; 68773

(20) Administer a Title IV-A program identified under 68774
division (A)~~(3)(4)(c) or~~ (e), or (f) of section 5101.80 of the 68775
Revised Code that the department of job and family services 68776
provides for the public children services agency to administer 68777
under the department's supervision pursuant to section 5101.801 of 68778
the Revised Code; 68779

(21) Administer the kinship caregiver subsidy program created 68780
under section 5101.802 of the Revised Code under the supervision 68781

of the director of job and family services; 68782

(22) Provide independent living services pursuant to sections 68783
2151.81 to 2151.84 of the Revised Code. 68784

(B) The public children services agency shall use the system 68785
implemented pursuant to division (B)(16) of this section in 68786
connection with an investigation undertaken pursuant to division 68787
(F)(1) of section 2151.421 of the Revised Code and may use the 68788
system at any other time the agency is involved with any child 68789
when the agency determines that risk assessment is necessary. 68790

(C) Except as provided in section 2151.422 of the Revised 68791
Code, in accordance with rules of the director of job and family 68792
services, and on behalf of children in the county whom the public 68793
children services agency considers to be in need of public care or 68794
protective services, the public children services agency may do 68795
the following: 68796

(1) Provide or find, with other child serving systems, 68797
specialized foster care for the care of children in a specialized 68798
foster home, as defined in section 5103.02 of the Revised Code, 68799
certified under section 5103.03 of the Revised Code; 68800

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 68801
this section, contract with the following for the purpose of 68802
assisting the agency with its duties: 68803

(i) County departments of job and family services; 68804

(ii) Boards of alcohol, drug addiction, and mental health 68805
services; 68806

(iii) County boards of mental retardation and developmental 68807
disabilities; 68808

(iv) Regional councils of political subdivisions established 68809
under Chapter 167. of the Revised Code; 68810

(v) Private and government providers of services; 68811

(vi) Managed care organizations and prepaid health plans.	68812
(b) A public children services agency contract under division	68813
(C)(2)(a) of this section regarding the agency's duties under	68814
section 2151.421 of the Revised Code may not provide for the	68815
entity under contract with the agency to perform any service not	68816
authorized by the department's rules.	68817
(c) Only a county children services board appointed under	68818
section 5153.03 of the Revised Code that is a public children	68819
services agency may contract under division (C)(2)(a) of this	68820
section. If an entity specified in division (B) or (C) of section	68821
5153.02 of the Revised Code is the public children services agency	68822
for a county, the board of county commissioners may enter into	68823
contracts pursuant to section 307.982 of the Revised Code	68824
regarding the agency's duties.	68825
Section 120.08. That existing sections 3215.18, 5101.35,	68826
5101.80, 5101.801, and 5153.16 of the Revised Code are hereby	68827
repealed.	68828
Section 120.09. The amendments in sections 120.07 and 120.08	68829
of this act take effect as specified in division (B) of section	68830
612.51 of this act.	68831
Section 200.01. Except as otherwise provided, all	68832
appropriation items (AI) in this act are appropriated out of any	68833
moneys in the state treasury to the credit of the designated fund	68834
that are not otherwise appropriated. For all appropriations made	68835
in this act, the amounts in the first column are for fiscal year	68836
2006 and the amounts in the second column are for fiscal year	68837
2007.	68838
FND AI AI TITLE APPROPRIATIONS	68839

Section 203.03. ACC ACCOUNTANCY BOARD OF OHIO				68840
General Services Fund Group				68841
4J8 889-601 CPA Education	\$	209,510	\$ 209,510	68842
Assistance				
4K9 889-609 Operating Expenses	\$	1,069,776	\$ 1,069,776	68843
TOTAL GSF General Services Fund				68844
Group	\$	1,279,286	\$ 1,279,286	68845
TOTAL ALL BUDGET FUND GROUPS				68846
 Section 203.06. PAY ACCRUED LEAVE LIABILITY				68848
Accrued Leave Liability Fund Group				68849
806 995-666 Accrued Leave Fund	\$	68,846,630	\$ 77,950,372	68850
807 995-667 Disability Fund	\$	48,057,723	\$ 50,955,496	68851
TOTAL ALF Accrued Leave Liability				68852
Fund Group	\$	116,904,353	\$ 128,905,868	68853
Agency Fund Group				68854
808 995-668 State Employee Health	\$	480,879,258	\$ 550,922,742	68855
Benefit Fund				
809 995-669 Dependent Care	\$	2,801,543	\$ 2,969,635	68856
Spending Account				
810 995-670 Life Insurance	\$	1,943,789	\$ 2,031,381	68857
Investment Fund				
811 995-671 Parental Leave Benefit	\$	4,040,434	\$ 4,282,860	68858
Fund				
813 995-672 Health Care Spending	\$	8,000,000	\$ 12,000,000	68859
Account				
TOTAL AGY Agency Fund Group				68860
TOTAL ALL BUDGET FUND GROUPS				68861
 ACCRUED LEAVE LIABILITY FUND				68862
The foregoing appropriation item 995-666, Accrued Leave Fund,				68863
shall be used to make payments from the Accrued Leave Liability				68864

Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 68865
If it is determined by the Director of Budget and Management that 68866
additional amounts are necessary, the amounts are appropriated. 68867

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 68868

The foregoing appropriation item 995-667, Disability Fund, 68869
shall be used to make payments from the State Employee Disability 68870
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 68871
Revised Code. If it is determined by the Director of Budget and 68872
Management that additional amounts are necessary, the amounts are 68873
appropriated. 68874

STATE EMPLOYEE HEALTH BENEFIT FUND 68875

The foregoing appropriation item 995-668, State Employee 68876
Health Benefit Fund, shall be used to make payments from the State 68877
Employee Health Benefit Fund (Fund 808), pursuant to section 68878
124.87 of the Revised Code. If it is determined by the Director of 68879
Budget and Management that additional amounts are necessary, the 68880
amounts are appropriated. 68881

Effective July 1, 2005, or as soon thereafter as possible, 68882
the Director of Budget and Management may transfer up to \$70,000 68883
in cash from the General Revenue Fund to the State Employee Health 68884
Benefit Fund (Fund 808). The amount of the transfer shall not 68885
exceed the amount of cash transferred from the State Employee 68886
Health Benefit Fund to the Health Care Spending Account Fund (Fund 68887
813) during fiscal year 2005. 68888

DEPENDENT CARE SPENDING ACCOUNT 68889

The foregoing appropriation item 995-669, Dependent Care 68890
Spending Account, shall be used to make payments from the 68891
Dependent Care Spending Account (Fund 809) to employees eligible 68892
for dependent care expenses. If it is determined by the Director 68893
of Budget and Management that additional amounts are necessary, 68894

the amounts are appropriated. 68895

LIFE INSURANCE INVESTMENT FUND 68896

The foregoing appropriation item 995-670, Life Insurance 68897
Investment Fund, shall be used to make payments from the Life 68898
Insurance Investment Fund (Fund 810) for the costs and expenses of 68899
the state's life insurance benefit program pursuant to section 68900
125.212 of the Revised Code. If it is determined by the Director 68901
of Budget and Management that additional amounts are necessary, 68902
the amounts are appropriated. 68903

PARENTAL LEAVE BENEFIT FUND 68904

The foregoing appropriation item 995-671, Parental Leave 68905
Benefit Fund, shall be used to make payments from the Parental 68906
Leave Benefit Fund (Fund 811) to employees eligible for parental 68907
leave benefits pursuant to section 124.137 of the Revised Code. If 68908
it is determined by the Director of Budget and Management that 68909
additional amounts are necessary, the amounts are appropriated. 68910

HEALTH CARE SPENDING ACCOUNT 68911

There is hereby established in the State Treasury the Health 68912
Care Spending Account Fund (Fund 813). The foregoing appropriation 68913
item 995-672, Health Care Spending Account, shall be used to make 68914
payments from the fund. The fund shall be under the supervision of 68915
the Department of Administrative Services and shall be used to 68916
make payments pursuant to state employees' participation in a 68917
flexible spending account for non-reimbursed health care expenses 68918
and pursuant to Section 125 of the Internal Revenue Code. All 68919
income derived from the investment of the fund shall accrue to the 68920
fund. If it is determined by the Director of Administrative 68921
Services that additional appropriation amounts are necessary, the 68922
Director of Administrative Services may request that the Director 68923
of Budget and Management increase such amounts. Such amounts are 68924
hereby appropriated. 68925

At the request of the Director of Administrative Services, 68926
the Director of Budget and Management shall transfer up to 68927
\$400,000 from the State Employee Health Benefit Fund (Fund 808) to 68928
the Health Care Spending Account Fund during fiscal years 2006 and 68929
2007. This cash shall be transferred as needed to provide adequate 68930
cash flow for the Health Care Spending Account Fund during fiscal 68931
year 2006 and fiscal year 2007. At the end of fiscal years 2006 68932
and 2007, the Director of Budget and Management shall transfer 68933
cash up to the amount previously transferred in the respective 68934
year back from the Health Care Spending Account (Fund 813) to the 68935
State Employee Health Benefit Fund (Fund 808). If funds are not 68936
available in the Health Care Spending Account Fund, the Director 68937
of Administrative Services may request, and the Director of Budget 68938
and Management may transfer, the balance of the funds needed from 68939
the General Revenue Fund. 68940

Section 203.09. ADJ ADJUTANT GENERAL

				68941
General Revenue Fund				68942
GRF 745-401 Ohio Military Reserve	\$	15,188	\$ 15,188	68943
GRF 745-404 Air National Guard	\$	1,939,762	\$ 1,939,762	68944
GRF 745-409 Central Administration	\$	3,899,590	\$ 3,899,590	68945
GRF 745-499 Army National Guard	\$	4,086,222	\$ 4,086,222	68946
GRF 745-502 Ohio National Guard	\$	102,973	\$ 102,973	68947
Unit Fund				
GRF 745-XXX National Guard	\$	1,000,000	\$ 1,000,000	68948
Benefits				
TOTAL GRF General Revenue Fund	\$	11,043,735	\$ 11,043,735	68949
General Services Fund Group				68950
534 745-612 Armory Improvements	\$	534,304	\$ 534,304	68951
536 745-620 Camp Perry/Buckeye Inn	\$	1,094,970	\$ 1,094,970	68952
Operations				
537 745-604 Ohio National Guard	\$	219,826	\$ 219,826	68953

Facility Maintenance			
TOTAL GSF General Services Fund	\$	1,849,100	\$ 1,849,100 68954
Group			
Federal Special Revenue Fund Group			68955
3E8 745-628 Air National Guard	\$	12,174,760	\$ 12,174,760 68956
Agreement			
3R8 745-603 Counter Drug	\$	25,000	\$ 25,000 68957
Operations			
341 745-615 Air National Guard	\$	2,424,740	\$ 2,424,740 68958
Base Security			
342 745-616 Army National Guard	\$	8,686,893	\$ 8,686,893 68959
Agreement			
TOTAL FED Federal Special Revenue	\$	23,311,393	\$ 23,311,393 68960
Fund Group			
State Special Revenue Fund Group			68961
5U8 745-613 Community Match	\$	90,000	\$ 91,800 68962
Armories			
528 745-605 Marksmanship	\$	126,078	\$ 128,600 68963
Activities			
TOTAL SSR State Special Revenue	\$	216,078	\$ 220,400 68964
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$	36,420,306	\$ 36,424,628 68965
Section 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES			68967
General Revenue Fund			68968
GRF 100-403 Public School Employee	\$	750,000	\$ 250,000 68969
Benefits			
GRF 100-405 Agency Audit Expenses	\$	329,000	\$ 329,000 68970
GRF 100-406 County & University	\$	60,000	\$ 60,000 68971
Human Resources			
Services			
GRF 100-410 Veterans' Records	\$	69,000	\$ 48,600 68972

	Conversion				
GRF 100-418	Web Sites and Business	\$ 3,275,280	\$ 3,275,280	68973	
	Gateway				
GRF 100-419	IT Security	\$ 1,636,247	\$ 1,636,247	68974	
	Infrastructure				
GRF 100-421	OAKS Project	\$ 484,000	\$ 410,839	68975	
	Implementation				
GRF 100-433	State of Ohio Computer	\$ 4,991,719	\$ 4,991,719	68976	
	Center				
GRF 100-439	Equal Opportunity	\$ 726,481	\$ 728,384	68977	
	Certification Programs				
GRF 100-447	OBA - Building Rent	\$ 115,740,400	\$ 116,091,300	68978	
	Payments				
GRF 100-448	OBA - Building	\$ 25,393,250	\$ 25,647,183	68979	
	Operating Payments				
GRF 100-449	DAS - Building	\$ 4,160,383	\$ 4,170,623	68980	
	Operating Payments				
GRF 100-451	Minority Affairs	\$ 47,000	\$ 47,000	68981	
GRF 100-734	Major Maintenance -	\$ 50,000	\$ 50,000	68982	
	State Bldgs				
GRF 102-321	Construction	\$ 1,190,959	\$ 1,206,779	68983	
	Compliance				
GRF 130-321	State Agency Support	\$ 2,693,788	\$ 2,668,986	68984	
	Services				
TOTAL GRF	General Revenue Fund	\$ 161,597,507	\$ 161,611,940	68985	
	General Services Fund Group			68986	
112 100-616	DAS Administration	\$ 5,221,393	\$ 5,299,427	68987	
115 100-632	Central Service Agency	\$ 466,517	\$ 485,178	68988	
117 100-644	General Services	\$ 6,834,247	\$ 7,245,772	68989	
	Division - Operating				
122 100-637	Fleet Management	\$ 4,025,043	\$ 4,032,968	68990	
125 100-622	Human Resources	\$ 18,293,921	\$ 18,210,762	68991	
	Division - Operating				

127	100-627	Vehicle Liability Insurance	\$	3,344,644	\$	3,344,644	68992
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	68993
130	100-606	Risk Management Reserve	\$	223,904	\$	223,904	68994
131	100-639	State Architect's Office	\$	6,977,274	\$	7,047,427	68995
132	100-631	DAS Building Management	\$	10,721,430	\$	11,066,228	68996
133	100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564	68997
188	100-649	Equal Opportunity Division - Operating	\$	993,378	\$	1,010,256	68998
201	100-653	General Services Resale Merchandise	\$	1,553,000	\$	1,553,000	68999
210	100-612	State Printing	\$	5,931,421	\$	5,931,421	69000
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712	69001
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166	69002
4P3	100-603	DAS Information Services	\$	5,902,099	\$	6,117,004	69003
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564	69004
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178	69005
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982	69006
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	69007
5L7	100-610	Professional Development	\$	2,700,000	\$	2,700,000	69008
5V6	100-619	Employee Educational Development	\$	936,129	\$	936,129	69009
TOTAL GSF General Services Fund Group							69010
			\$	216,357,426	\$	215,566,238	69011
Federal Special Revenue Fund Group							69012
3AJ	100-623	Information Technology Grants	\$	82,048	\$	82,048	69013
TOTAL FSR Federal Special Revenue			\$	82,048	\$	82,048	69014

Fund Group				
Agency Fund Group				69015
124 100-629 Payroll Deductions	\$ 2,050,000,000	\$ 2,050,000,000		69016
TOTAL AGY Agency Fund Group	\$ 2,050,000,000	\$ 2,050,000,000		69017
Holding Account Redistribution Fund Group				69018
R08 100-646 General Services	\$ 20,000	\$ 20,000		69019
Refunds				
TOTAL 090 Holding Account				69020
Redistribution Fund Group	\$ 20,000	\$ 20,000		69021
TOTAL ALL BUDGET FUND GROUPS	\$ 2,428,056,981	\$ 2,427,280,226		69022

Section 203.12.03. AGENCY AUDIT EXPENSES 69024

The foregoing appropriation item 100-405, Agency Audit 69025
Expenses, shall be used for auditing expenses designated in 69026
division (A)(1) of section 117.13 of the Revised Code for those 69027
state agencies audited on a biennial basis. 69028

Section 203.12.06. OHIO BUILDING AUTHORITY 69029

The foregoing appropriation item 100-447, OBA - Building Rent 69030
Payments, shall be used to meet all payments at the times they are 69031
required to be made during the period from July 1, 2005, to June 69032
30, 2007, by the Department of Administrative Services to the Ohio 69033
Building Authority pursuant to leases and agreements under Chapter 69034
152. of the Revised Code, but limited to the aggregate amount of 69035
\$231,831,700. These appropriations are the source of funds pledged 69036
for bond service charges on obligations issued pursuant to Chapter 69037
152. of the Revised Code. 69038

The foregoing appropriation item 100-448, OBA - Building 69039
Operating Payments, shall be used to meet all payments at the 69040
times that they are required to be made during the period from 69041
July 1, 2005, to June 30, 2007, by the Department of 69042
Administrative Services to the Ohio Building Authority pursuant to 69043

leases and agreements under Chapter 152. of the Revised Code, but 69044
limited to the aggregate amount of \$51,040,433. 69045

The payments to the Ohio Building Authority are for the 69046
purpose of paying the expenses of agencies that occupy space in 69047
the various state facilities. The Department of Administrative 69048
Services may enter into leases and agreements with the Ohio 69049
Building Authority providing for the payment of these expenses. 69050
The Ohio Building Authority shall report to the Department of 69051
Administrative Services and the Office of Budget and Management 69052
not later than five months after the start of a fiscal year the 69053
actual expenses incurred by the Ohio Building Authority in 69054
operating the facilities and any balances remaining from payments 69055
and rentals received in the prior fiscal year. The Department of 69056
Administrative Services shall reduce subsequent payments by the 69057
amount of the balance reported to it by the Ohio Building 69058
Authority. 69059

Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS 69060

The foregoing appropriation item 100-449, DAS - Building 69061
Operating Payments, shall be used to pay the rent expenses of 69062
veterans organizations pursuant to section 123.024 of the Revised 69063
Code in fiscal years 2006 and 2007. 69064

The foregoing appropriation item, 100-449, DAS - Building 69065
Operating Payments, may be used to provide funding for the cost of 69066
property appraisals or building studies that the Department of 69067
Administrative Services may be required to obtain for property 69068
that is being sold by the state or property under consideration to 69069
be renovated or purchased by the state. 69070

Notwithstanding section 125.28 of the Revised Code, the 69071
remaining portion of the appropriation may be used to pay the 69072
operating expenses of state facilities maintained by the 69073

Department of Administrative Services that are not billed to 69074
building tenants. These expenses may include, but are not limited 69075
to, the costs for vacant space and space undergoing renovation, 69076
and the rent expenses of tenants that are relocated due to 69077
building renovations. These payments shall be processed by the 69078
Department of Administrative Services through intrastate transfer 69079
vouchers and placed in the Building Management Fund (Fund 132). 69080

Section 203.12.10. PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS 69081

The foregoing appropriation item 100-403, Public School 69082
Employee Benefits, shall be used by the Director of Administrative 69083
Services to hire an executive director and an assistant 69084
responsible for providing administrative support to the School 69085
Employee Health Care Board and the public school employee health 69086
insurance program established under section 9.901 of the Revised 69087
Code. 69088

At any time during the biennium, when the Director of 69089
Administrative Services certifies that there is a sufficient 69090
reserve available from premium payments made to the School 69091
Employees Health Care Fund (Fund 815), the Director of Budget and 69092
Management shall transfer \$1,000,000 from the School Employees 69093
Health Care Fund to the General Revenue Fund. 69094

Section 203.12.12. CENTRAL SERVICE AGENCY FUND 69095

The Director of Budget and Management may transfer up to 69096
\$363,851 in fiscal year 2006 from the Occupational Licensing and 69097
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 69098
(Fund 115). The Director of Budget and Management may transfer up 69099
to \$45,184 in fiscal year 2006 from the State Medical Board 69100
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 69101
115). The Director of Budget and Management may transfer up to 69102
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 69103

Registration Fund (Fund 5H9) to the Central Service Agency Fund 69104
(Fund 115). The appropriation item 100-632, Central Service 69105
Agency, shall be used to purchase the necessary equipment, 69106
products, and services to maintain an automated application for 69107
the professional licensing boards, and to support their licensing 69108
functions in fiscal year 2006. The amount of the cash transfers is 69109
appropriated to appropriation item 100-632, Central Service 69110
Agency. 69111

Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES 69112
69113

With approval of the Director of Budget and Management, the 69114
Department of Administrative Services may seek reimbursement from 69115
state agencies for the actual costs and expenses the department 69116
incurs in the collective bargaining arbitration process. The 69117
reimbursements shall be processed through intrastate transfer 69118
vouchers and placed in the Collective Bargaining Fund (Fund 128). 69119

Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY 69120

The foregoing appropriation item 100-607, IT Service 69121
Delivery, shall be used by the Office of Information Technology to 69122
carry out its responsibilities under section 125.29 of the Revised 69123
Code. The foregoing appropriation item 100-630, IT Governance, 69124
shall be used by the Office of Information Technology to carry out 69125
its responsibilities under section 125.29 of the Revised Code. 69126

As soon as possible on or after July 1, 2005, the Director of 69127
Administrative Services shall certify to the Director of Budget 69128
and Management the amount of cash up to \$5,000,000 to be 69129
transferred from the IT Service Delivery Fund (Fund 133) to the IT 69130
Governance Fund (Fund 229). This amount represents a portion of 69131
the cash balance in the IT Service Delivery Fund attributable to 69132
IT Governance programs. The Director of Budget and Management 69133

shall transfer the certified amount. 69134

After final payments are made from fiscal year 2005 69135
encumbrances in the IT Service Delivery Fund (Fund 133), the 69136
Department of Administrative Services shall reconcile fiscal year 69137
2005 financial activity in the IT Service Delivery Fund and 69138
determine the amount of the fund cash balance due to the IT 69139
Governance Fund (Fund 229). The reconciliation shall be done in 69140
accordance with federal cost accounting regulations. Not later 69141
than June 30, 2006, the Director of Administrative Services shall 69142
make a determination of any additional transfers of cash necessary 69143
for reconciliation purposes. Upon concurrence with this 69144
determination, the Director of Budget and Management may transfer 69145
such cash between the IT Service Delivery Fund and the IT 69146
Governance Fund. 69147

Section 203.12.21. EQUAL OPPORTUNITY PROGRAM 69148

The Department of Administrative Services, with the approval 69149
of the Director of Budget and Management, shall establish charges 69150
for recovering the costs of administering the activities supported 69151
by the State EEO Fund (Fund 188). These charges shall be deposited 69152
to the credit of the State EEO Fund (Fund 188) upon payment made 69153
by state agencies, state-supported or state-assisted institutions 69154
of higher education, and tax-supported agencies, municipal 69155
corporations, and other political subdivisions of the state, for 69156
services rendered. 69157

Section 203.12.24. MERCHANDISE FOR RESALE 69158

The foregoing appropriation item 100-653, General Services 69159
Resale Merchandise, shall be used to account for merchandise for 69160
resale, which is administered by the General Services Division. 69161
Deposits to the fund may comprise the cost of merchandise for 69162
resale and shipping fees. 69163

Section 203.12.27. DAS INFORMATION SERVICES 69164

There is hereby established in the State Treasury the DAS 69165
Information Services Fund. The foregoing appropriation item 69166
100-603, DAS Information Services, shall be used to pay the costs 69167
of providing information systems and services in the Department of 69168
Administrative Services. 69169

The Department of Administrative Services shall establish 69170
user charges for all information systems and services that are 69171
allowable in the statewide indirect cost allocation plan submitted 69172
annually to the United States Department of Health and Human 69173
Services. These charges shall comply with federal regulations and 69174
shall be deposited to the credit of the DAS Information Services 69175
Fund (Fund 4P3). 69176

Section 203.12.30. INVESTMENT RECOVERY FUND 69177

Notwithstanding division (B) of section 125.14 of the Revised 69178
Code, cash balances in the Investment Recovery Fund (Fund 427) may 69179
be used to support the operating expenses of the Federal Surplus 69180
Operating Program created in sections 125.84 to 125.90 of the 69181
Revised Code. 69182

Notwithstanding division (B) of section 125.14 of the Revised 69183
Code, cash balances in the Investment Recovery Fund may be used to 69184
support the operating expenses of the State Property Inventory and 69185
Fixed Assets Management System Program. 69186

Of the foregoing appropriation item 100-602, Investment 69187
Recovery, up to \$2,147,024 in fiscal year 2006 and up to 69188
\$2,205,594 in fiscal year 2007 shall be used to pay the operating 69189
expenses of the State Surplus Property Program, the Surplus 69190
Federal Property Program, and the State Property Inventory and 69191
Fixed Assets Management System Program under Chapter 125. of the 69192
Revised Code and this section. If additional appropriations are 69193

necessary for the operations of these programs, the Director of
Administrative Services shall seek increased appropriations from
the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment
Recovery, \$3,433,184 in fiscal year 2006 and \$3,477,970 in fiscal
year 2007 shall be used to transfer proceeds from the sale of
surplus property from the Investment Recovery Fund to non-General
Revenue Funds under division (A)(2) of section 125.14 of the
Revised Code. If it is determined by the Director of
Administrative Services that additional appropriations are
necessary for the transfer of such sale proceeds, the Director of
Administrative Services may request the Director of Budget and
Management to increase the amounts. Such amounts are hereby
appropriated.

Notwithstanding division (B) of section 125.14 of the Revised
Code, the Director of Budget and Management, at the request of the
Director of Administrative Services, shall transfer up to \$500,000
of the amounts held for transfer to the General Revenue Fund from
the Investment Recovery Fund to the State Architect's Fund (Fund
131) to provide operating cash.

Section 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM

Effective with the implementation of the Multi-Agency Radio
Communications System, the Director of Administrative Services
shall collect user fees from participants in the system. The
Director of Administrative Services, with the advice of the
Multi-Agency Radio Communications System Steering Committee and
the Director of Budget and Management, shall determine the amount
of the fees and the manner by which the fees shall be collected.
Such user charges shall comply with the applicable cost principles
issued by the federal Office of Management and Budget. All moneys
from user charges and fees shall be deposited in the state

treasury to the credit of the Multi-Agency Radio Communications 69225
System Administration Fund (Fund 5C2), which is hereby established 69226
in the state treasury. All interest income derived from the 69227
investment of the fund shall accrue to the fund. 69228

Section 203.12.36. WORKFORCE DEVELOPMENT FUND 69229

There is hereby established in the state treasury the 69230
Workforce Development Fund (Fund 5D7). The foregoing appropriation 69231
item 100-621, Workforce Development, shall be used to make 69232
payments from the fund. The fund shall be under the supervision of 69233
the Department of Administrative Services, which may adopt rules 69234
with regard to administration of the fund. The fund shall be used 69235
to pay the costs of the Workforce Development Program, established 69236
by Article 37 of the contract between the State of Ohio and 69237
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 69238
by any successor labor contract between the State of Ohio and 69239
OCSEA/AFSCME. The program shall be administered in accordance with 69240
the contract. Revenues shall accrue to the fund as specified in 69241
the contract. The fund may be used to pay direct and indirect 69242
costs of the program that are attributable to staff, consultants, 69243
and service providers. All income derived from the investment of 69244
the fund shall accrue to the fund. 69245

If it is determined by the Director of Administrative 69246
Services that additional appropriation amounts are necessary, the 69247
Director of Administrative Services may request that the Director 69248
of Budget and Management increase such amounts. Such amounts are 69249
hereby appropriated. 69250

Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND 69251

The foregoing appropriation item 100-610, Professional 69252
Development, shall be used to make payments from the Professional 69253
Development Fund (Fund 5L7) under section 124.182 of the Revised 69254

Code. 69255

Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT 69256

There is hereby established in the state treasury the 69257
Employee Educational Development Fund (Fund 5V6). The foregoing 69258
appropriation item 100-619, Employee Educational Development, 69259
shall be used to make payments from the fund. The fund shall be 69260
used to pay the costs of the administration of educational 69261
programs per existing collective bargaining agreements with 69262
District 1199, the Health Care and Social Service Union; State 69263
Council of Professional Educators; Ohio Education Association and 69264
National Education Association; the Fraternal Order of Police Ohio 69265
Labor Council, Unit 2; and the Ohio State Troopers Association, 69266
Units 1 and 15. The fund shall be under the supervision of the 69267
Department of Administrative Services, which may adopt rules with 69268
regard to administration of the fund. The fund shall be 69269
administered in accordance with the applicable sections of the 69270
collective bargaining agreements between the State and the 69271
aforementioned unions. The Department of Administrative Services, 69272
with the approval of the Director of Budget and Management, shall 69273
establish charges for recovering the costs of administering the 69274
educational programs. Receipts for these charges shall be 69275
deposited into the Employee Educational Development Fund. All 69276
income derived from the investment of the funds shall accrue to 69277
the fund. 69278

If it is determined by the Director of Administrative 69279
Services that additional appropriation amounts are necessary, the 69280
Director of Administrative Services may request that the Director 69281
of Budget and Management increase such amounts. Such amounts are 69282
hereby appropriated with the approval of the Director of Budget 69283
and Management. 69284

Section 203.12.45. MAJOR IT PURCHASES 69285

The Director of Administrative Services shall compute the 69286
amount of revenue attributable to the amortization of all 69287
equipment purchases and capitalized systems from appropriation 69288
item 100-607, IT Service Delivery; appropriation item 100-617, 69289
Major IT Purchases; and appropriation item CAP-837, Major IT 69290
Purchases, which is recovered by the Department of Administrative 69291
Services as part of the rates charged by the IT Service Delivery 69292
Fund (Fund 133) created in section 125.15 of the Revised Code. The 69293
Director of Budget and Management may transfer cash in an amount 69294
not to exceed the amount of amortization computed from the IT 69295
Service Delivery Fund (Fund 133) to the Major IT Purchases Fund 69296
(Fund 4N6). 69297

Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT 69298

The Director of Administrative Services, with the approval of 69299
the Director of Budget and Management, may establish an 69300
information technology assessment for the purpose of recovering 69301
the cost of selected infrastructure and statewide programs. Such 69302
assessment shall comply with applicable cost principles issued by 69303
the federal Office of Management and Budget. The information 69304
technology assessment shall be charged to all organized bodies, 69305
offices, or agencies established by the laws of the state for the 69306
exercise of any function of state government except for the 69307
General Assembly, any legislative agency, the Supreme Court, the 69308
other courts of record in Ohio, or any judicial agency, the 69309
Adjutant General, the Bureau of Workers' Compensation, and 69310
institutions administered by a board of trustees. Any state-entity 69311
exempted by this section may utilize the infrastructure or 69312
statewide program by participating in the information technology 69313
assessment. All charges for the information technology assessment 69314

shall be deposited to the credit of the IT Service Delivery Fund 69315
(Fund 133) created in section 125.15 of the Revised Code. 69316

Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND 69317

Within thirty days after the effective date of this section, 69318
or as soon as possible thereafter, the Director of Administrative 69319
Services shall certify the remaining cash in the Unemployment 69320
Compensation Fund (Fund 113) to the Director of Budget and 69321
Management who shall transfer that amount to the General Revenue 69322
Fund and abolish the Unemployment Compensation Fund (Fund 113). 69323

Section 203.12.54. PAYROLL WITHHOLDING FUND 69324

The foregoing appropriation item 100-629, Payroll Deductions, 69325
shall be used to make payments from the Payroll Withholding Fund 69326
(Fund 124). If it is determined by the Director of Budget and 69327
Management that additional appropriation amounts are necessary, 69328
such amounts are hereby appropriated. 69329

Section 203.12.57. GENERAL SERVICES REFUNDS 69330

The foregoing appropriation item 100-646, General Services 69331
Refunds, shall be used to hold bid guarantee and building plans 69332
and specifications deposits until they are refunded. The Director 69333
of Administrative Services may request that the Director of Budget 69334
and Management transfer cash received for the costs of providing 69335
the building plans and specifications to contractors from the 69336
General Services Refunds Fund to the State Architect's Office Fund 69337
(Fund 131). Prior to the transfer of cash, the Director of 69338
Administrative Services shall certify that such amounts are in 69339
excess of amounts required for refunding deposits and are directly 69340
related to costs of producing building plans and specifications. 69341
If it is determined that additional appropriations are necessary, 69342
such amounts are hereby appropriated. 69343

Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 69344
DEBT SERVICE PAYMENTS 69345

The Director of Administrative Services, in consultation with 69346
the Multi-Agency Radio Communication System (MARCS) Steering 69347
Committee and the Director of Budget and Management, shall 69348
determine the share of debt service payments attributable to 69349
spending for MARCS components that are not specific to any one 69350
agency and that shall be charged to agencies supported by the 69351
motor fuel tax. Such share of debt service payments shall be 69352
calculated for MARCS capital disbursements made beginning July 1, 69353
1997. Within thirty days of any payment made from appropriation 69354
item 100-447, OBA - Building Rent Payments, the Director of 69355
Administrative Services shall certify to the Director of Budget 69356
and Management the amount of this share. The Director of Budget 69357
and Management shall transfer such amounts to the General Revenue 69358
Fund from the State Highway Safety Fund (Fund 036) established in 69359
section 4501.06 of the Revised Code. 69360

The Director of Administrative Services shall consider 69361
renting or leasing existing tower sites at reasonable or current 69362
market rates, so long as these existing sites are equipped with 69363
the technical capabilities to support the MARCS project. 69364

Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 69365

Whenever the Director of Administrative Services declares a 69366
"public exigency," as provided in division (C) of section 123.15 69367
of the Revised Code, the Director shall also notify the members of 69368
the Controlling Board. 69369

Section 203.12.66. GENERAL SERVICE CHARGES 69370

The Department of Administrative Services, with the approval 69371
of the Director of Budget and Management, shall establish charges 69372

for recovering the costs of administering the programs in the 69373
General Services Fund (Fund 117) and the State Printing Fund (Fund 69374
210). 69375

Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES 69376

General Revenue Fund 69377

GRF 036-100 Personal Services \$ 220,091 \$ 220,091 69378

GRF 036-200 Maintenance \$ 39,909 \$ 39,909 69379

GRF 036-300 Equipment \$ 1,000 \$ 1,000 69380

GRF 036-501 CAAM Awards and \$ 1,000 \$ 1,000 69381

Scholarships

GRF 036-502 Community Projects \$ 20,000 \$ 20,000 69382

TOTAL GRF General Revenue Fund \$ 282,000 \$ 282,000 69383

State Special Revenue Fund Group 69384

4H3 036-601 Commission on African \$ 10,000 \$ 10,000 69385

American Males -

Gifts/Grants

TOTAL SSR State Special Revenue \$ 10,000 \$ 10,000 69386

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 292,000 \$ 292,000 69387

COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW 69388

Annually, not later than the thirty-first day of December, 69389

the Commission on African American Males shall internally prepare 69390

and submit to the chairperson and ranking minority member of the 69391

Human Services Subcommittee of the Finance and Appropriations 69392

Committee of the House of Representatives a report that 69393

demonstrates the progress that has been made toward meeting the 69394

Commission's mission statement. 69395

Section 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 69396

General Revenue Fund 69397

GRF 029-321 Operating Expenses	\$	379,769	\$	387,364	69398
TOTAL GRF General Revenue Fund	\$	379,769	\$	387,364	69399
TOTAL ALL BUDGET FUND GROUPS	\$	379,769	\$	387,364	69400

OPERATING 69401

The Chief Administrative Officer of the House of 69402
Representatives and the Clerk of the Senate shall determine, by 69403
mutual agreement, which of them shall act as fiscal agent for the 69404
Joint Committee on Agency Rule Review. 69405

OPERATING EXPENSES 69406

The unencumbered balance of appropriation item 029-321, 69407
Operating Expenses, at the end of fiscal year 2006 shall be 69408
transferred to fiscal year 2007 for use under the same 69409
appropriation item. 69410

Section 203.21. AGE DEPARTMENT OF AGING 69411

General Revenue Fund 69412

GRF 490-321 Operating Expenses	\$	2,579,867	\$	2,308,867	69413
GRF 490-403 PASSPORT	\$	112,045,715	\$	121,009,372	69414
GRF 490-405 Golden Buckeye Card	\$	467,614	\$	467,614	69415
GRF 490-406 Senior Olympics	\$	15,638	\$	15,638	69416
GRF 490-409 Ohio Community Service	\$	203,647	\$	193,465	69417

Council Operations

GRF 490-410 Long-Term Care	\$	689,437	\$	689,437	69418
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Ombudsman

GRF 490-411 Senior Community	\$	10,630,988	\$	10,630,988	69419
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Services

GRF 490-412 Residential State	\$	9,156,771	\$	9,156,771	69420
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Supplement

GRF 490-414 Alzheimers Respite	\$	4,085,888	\$	4,085,888	69421
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GRF 490-416 JCFS Elderly	\$	100,000	\$	100,000	69422
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Transportation

GRF 490-421	PACE	\$	11,354,145	\$	10,214,809	69423
GRF 490-422	Assisted Living Waiver	\$	0	\$	359,919	69424
GRF 490-506	National Senior	\$	352,943	\$	352,943	69425
	Service Corps					
TOTAL GRF	General Revenue Fund	\$	151,682,653	\$	159,585,711	69426
	General Services Fund Group					69427
480 490-606	Senior Community	\$	372,677	\$	372,677	69428
	Outreach and Education					
TOTAL GSF	General Services Fund					69429
Group		\$	372,677	\$	372,677	69430
	Federal Special Revenue Fund Group					69431
3C4 490-607	PASSPORT	\$	198,683,143	\$	218,196,387	69432
3C4 490-621	PACE-Federal	\$	10,854,083	\$	14,586,135	69433
3C4 490-622	Assisted	\$	0	\$	5,687,374	69434
	Living-Federal					
3M3 490-611	Federal Aging	\$	27,622,693	\$	28,037,034	69435
	Nutrition					
3M4 490-612	Federal Independence	\$	27,907,287	\$	28,325,896	69436
	Services					
3R7 490-617	Ohio Community Service	\$	9,170,000	\$	9,170,000	69437
	Council Programs					
322 490-618	Federal Aging Grants	\$	14,834,354	\$	15,014,494	69438
TOTAL FED	Federal Special Revenue					69439
Fund Group		\$	289,071,560	\$	319,017,320	69440
	State Special Revenue Fund Group					69441
4C4 490-609	Regional Long-Term	\$	910,000	\$	935,000	69442
	Care Ombudsman Program					
4J4 490-610	PASSPORT/Residential	\$	33,263,984	\$	33,263,984	69443
	State Supplement					
4U9 490-602	PASSPORT Fund	\$	4,424,969	\$	4,424,969	69444
5BA 490-620	Ombudsman Support	\$	615,000	\$	0	69445
5K9 490-613	Long Term Care	\$	298,400	\$	620,000	69446

Consumers Guide							
5W1	490-616	Resident Services	\$	262,500	\$	262,500	69447
Coordinator Program							
624	490-604	OCSC Community Support	\$	2,500	\$	2,500	69448
TOTAL SSR State Special Revenue							69449
Fund Group			\$	39,777,353	\$	39,508,953	69450
TOTAL ALL BUDGET FUND GROUPS			\$	480,904,243	\$	518,484,661	69451

Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY 69453
ADMISSION 69454

Pursuant to an interagency agreement, the Department of Job 69455
and Family Services shall designate the Department of Aging to 69456
perform assessments under sections 173.42 and 5111.204 of the 69457
Revised Code. Of the foregoing appropriation item 490-403, 69458
PASSPORT, the Department of Aging may use not more than \$2,586,648 69459
in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform 69460
the assessments for persons not eligible for Medicaid under the 69461
department's interagency agreement with the Department of Job and 69462
Family Services and to assist individuals in planning for their 69463
long-term health care needs. 69464

Section 203.21.06. PASSPORT 69465

Of the foregoing appropriation item 490-403, PASSPORT, up to 69466
\$200,000 in fiscal year 2006 shall be used for the request for 69467
proposal process, and for the contracting of and the evaluation of 69468
the PASSPORT Program, as required under Section 206.66.66 of this 69469
act. 69470

Appropriation item 490-403, PASSPORT, and the amounts set 69471
aside for the PASSPORT Waiver Program in appropriation item 69472
490-610, PASSPORT/Residential State Supplement, may be used to 69473
assess clients regardless of Medicaid eligibility. 69474

The Director of Aging shall adopt rules under section 111.15 69475

of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility. 69476
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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. 69478
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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. 69491
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OHIO COMMUNITY SERVICE COUNCIL 69495

The foregoing appropriation items 490-409, Ohio Community Service Council Operations, and 490-617, Ohio Community Service Council Programs, shall be used in accordance with section 121.40 of the Revised Code. 69496
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The Director of Budget and Management shall transfer, by intrastate transfer voucher, in fiscal year 2006, \$615,000 from Fund 4E3, Resident Protection Fund, in the Department of Job and Family Services, to Fund 5BA in the Department of Aging, to be used for program management for the Office of the State Long-Term Care Ombudsman created by the Department of Aging under division (M) of section 173.01 of the Revised Code. 69500
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SENIOR COMMUNITY SERVICES 69507

Appropriation item 490-411, Senior Community Services, shall 69508
be used for services designated by the Department of Aging, 69509
including, but not limited to, home-delivered and congregate 69510
meals, transportation services, personal care services, respite 69511
services, adult day services, home repair, care coordination, and 69512
decision support systems. Service priority shall be given to low 69513
income, frail, and cognitively impaired persons 60 years of age 69514
and over. The department shall promote cost sharing by service 69515
recipients for those services funded with block grant funds, 69516
including, when possible, sliding-fee scale payment systems based 69517
on the income of service recipients. 69518

ALZHEIMERS RESPITE 69519

The foregoing appropriation item 490-414, Alzheimers Respite, 69520
shall be used to fund only Alzheimer's disease services under 69521
section 173.04 of the Revised Code. 69522

JCFS ELDERLY TRANSPORTATION 69523

The foregoing appropriation item 490-416, JCFS Elderly 69524
Transportation, shall be used for noncapital expenses related to 69525
transportation services for the elderly that provide access to 69526
such things as healthcare services, congregate meals, 69527
socialization programs, and grocery shopping. The funds shall pass 69528
through and shall be administered by the Area Agencies on Aging. 69529

Agencies receiving funding from appropriation item 490-416, 69530
JCFS Elderly Transportation, shall coordinate services with other 69531
local service agencies. 69532

RESIDENTIAL STATE SUPPLEMENT 69533

Under the Residential State Supplement Program, the amount 69534
used to determine whether a resident is eligible for payment and 69535
for determining the amount per month the eligible resident will 69536

receive shall be as follows: 69537

(A) \$900 for a residential care facility, as defined in 69538
section 3721.01 of the Revised Code; 69539

(B) \$900 for an adult group home, as defined in Chapter 3722. 69540
of the Revised Code; 69541

(C) \$800 for an adult foster home, as defined in Chapter 173. 69542
of the Revised Code; 69543

(D) \$800 for an adult family home, as defined in Chapter 69544
3722. of the Revised Code; 69545

(E) \$800 for an adult community alternative home, as defined 69546
in Chapter 3724. of the Revised Code; 69547

(F) \$800 for an adult residential facility, as defined in 69548
Chapter 5119. of the Revised Code; 69549

(G) \$600 for adult community mental health housing services, 69550
as defined in division (B)(5) of section 173.35 of the Revised 69551
Code. 69552

The Departments of Aging and Job and Family Services shall 69553
reflect these amounts in any applicable rules the departments 69554
adopt under section 173.35 of the Revised Code. 69555

LONG-TERM CARE OMBUDSMAN 69556

The foregoing appropriation item 490-410, Long-Term Care 69557
Ombudsman, shall be used for a program to fund ombudsman program 69558
activities in nursing homes, adult care facilities, boarding 69559
homes, and home and community care services. 69560

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS 69561

In fiscal year 2006, the Department of Aging may transfer 69562
cash by intrastate transfer vouchers from the foregoing 69563
appropriation items 490-412, Residential State Supplement, and 69564
490-610, PASSPORT/Residential State Supplement, to the Department 69565

of Job and Family Services' Fund 4J5, Home and Community-Based	69566
Services for the Aged Fund. The funds shall be used to make	69567
benefit payments to Residential State Supplement recipients.	69568
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL	69569
INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS	69570
Upon written request of the Director of Aging, the Director	69571
of Budget and Management may transfer appropriation authority	69572
among appropriation items 490-611, Federal Aging Nutrition,	69573
490-612, Federal Independence Services, and 490-618, Federal Aging	69574
Grants, in amounts not to exceed 30 per cent of the appropriation	69575
from which the transfer is made. The Department of Aging shall	69576
report a transfer to the Controlling Board at the next regularly	69577
scheduled meeting of the board.	69578
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM	69579
The foregoing appropriation item 490-609, Regional Long-Term	69580
Care Ombudsman Program, shall be used solely to pay the costs of	69581
operating the regional long-term care ombudsman programs.	69582
PASSPORT/RESIDENTIAL STATE SUPPLEMENT	69583
Of the foregoing appropriation item 490-610,	69584
PASSPORT/Residential State Supplement, up to \$2,835,000 each	69585
fiscal year may be used to fund the Residential State Supplement	69586
Program. The remaining available funds shall be used to fund the	69587
PASSPORT program.	69588
TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT	69589
Subject to approval by the Social Security Administration, of	69590
the foregoing appropriation item 490-610, PASSPORT/Residential	69591
State Supplement, in fiscal year 2007 the Department of Aging	69592
shall transfer to the Ohio Department of Mental Health sufficient	69593
funds to make benefit payments for all Residential State	69594
Supplement recipients who are less than 60 years of age diagnosed	69595

with mental illness, mental retardation, or a developmental disability and are enrolled in the program on June 30, 2006. 69596
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The departments of Aging and Mental Health shall jointly petition the Social Security Administration to approve changes to the Residential State Supplement program. Changes proposed by the two departments shall ensure that Residential State Supplement program recipients on June 30, 2006, continue to receive benefit payments as long as they remain in the program. Changes proposed by the departments of Aging and Mental Health may include provisions that improve local accountability to county boards of mental health, maximize available funding, and improve the quality of residential settings approved for recipients. 69598
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Section 203.24. AGR DEPARTMENT OF AGRICULTURE 69608

General Revenue Fund 69609

GRF 700-321	Operating Expenses	\$	2,605,330	\$	2,605,330	69610
GRF 700-401	Animal Disease Control	\$	3,574,506	\$	3,574,506	69611
GRF 700-403	Dairy Division	\$	1,304,504	\$	1,304,504	69612
GRF 700-404	Ohio Proud	\$	185,395	\$	185,395	69613
GRF 700-405	Animal Damage Control	\$	60,000	\$	60,000	69614
GRF 700-406	Consumer Analytical	\$	819,907	\$	819,907	69615
	Lab					
GRF 700-407	Food Safety	\$	939,099	\$	939,099	69616
GRF 700-409	Farmland Preservation	\$	241,573	\$	241,573	69617
GRF 700-410	Plant Industry	\$	391,216	\$	50,000	69618
GRF 700-411	International Trade	\$	517,524	\$	517,524	69619
	and Market Development					
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000	69620
GRF 700-415	Poultry Inspection	\$	251,678	\$	251,678	69621
GRF 700-418	Livestock Regulation	\$	1,228,496	\$	1,228,496	69622
	Program					
GRF 700-424	Livestock Testing and	\$	115,946	\$	115,946	69623

		Inspections				
GRF	700-499	Meat Inspection	\$	4,696,889	\$	4,696,889 69624
		Program - State Share				
GRF	700-501	County Agricultural	\$	358,226	\$	358,226 69625
		Societies				
TOTAL GRF		General Revenue Fund	\$	17,490,289	\$	17,149,073 69626
		Federal Special Revenue Fund Group				69627
3J4	700-607	Indirect Cost	\$	1,500,027	\$	1,500,027 69628
3R2	700-614	Federal Plant Industry	\$	4,800,000	\$	4,800,000 69629
326	700-618	Meat Inspection	\$	5,201,291	\$	5,201,291 69630
		Program - Federal				
		Share				
336	700-617	Ohio Farm Loan	\$	43,793	\$	44,679 69631
		Revolving Fund				
382	700-601	Cooperative Contracts	\$	4,300,000	\$	4,300,000 69632
TOTAL FED		Federal Special Revenue				69633
Fund Group			\$	15,845,111	\$	15,845,997 69634
		State Special Revenue Fund Group				69635
4C9	700-605	Feed, Fertilizer,	\$	1,922,857	\$	1,891,395 69636
		Seed, and Lime				
		Inspection				
4D2	700-609	Auction Education	\$	23,885	\$	24,601 69637
4E4	700-606	Utility Radiological	\$	73,059	\$	73,059 69638
		Safety				
4P7	700-610	Food Safety Inspection	\$	816,096	\$	858,096 69639
4R0	700-636	Ohio Proud Marketing	\$	38,300	\$	38,300 69640
4R2	700-637	Dairy Industry	\$	1,541,466	\$	1,621,460 69641
		Inspection				
4T6	700-611	Poultry and Meat	\$	47,294	\$	47,294 69642
		Inspection				
4T7	700-613	International Trade	\$	52,000	\$	54,000 69643
		and Market Development				

494	700-612	Agricultural Commodity	\$	170,220	\$	170,220	69644
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054	69645
497	700-627	Commodity Handlers	\$	515,820	\$	529,978	69646
		Regulatory Program					
5BF	700-643	Weights and Measures	\$	1,160,600	\$	1,160,600	69647
5B8	700-629	Auctioneers	\$	365,390	\$	365,390	69648
5H2	700-608	Metrology Lab and	\$	351,526	\$	362,526	69649
		Scale Certification					
5L8	700-604	Livestock Management	\$	30,000	\$	30,000	69650
		Program					
578	700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436	69651
652	700-634	Animal and Consumer	\$	1,876,624	\$	1,831,232	69652
		Analytical Laboratory					
669	700-635	Pesticide Program	\$	2,993,232	\$	3,354,448	69653
TOTAL SSR State Special Revenue							69654
Fund Group			\$	14,154,904	\$	14,599,089	69655
Clean Ohio Fund Group							69656
057	700-632	Clean Ohio	\$	149,000	\$	149,000	69657
		Agricultural Easement					
TOTAL CLR Clean Ohio Fund Group			\$	149,000	\$	149,000	69658
TOTAL ALL BUDGET FUND GROUPS			\$	47,639,304	\$	47,743,159	69659

OHIO - ISRAEL AGRICULTURAL INITIATIVE 69660

Of the foregoing General Revenue Fund appropriation item 69661

700-411, International Trade and Market Development, \$100,000 69662

shall be used in fiscal year 2006 for the Ohio - Israel 69663

Agricultural Initiative. 69664

FAMILY FARM LOAN PROGRAM 69665

Notwithstanding Chapter 166. of the Revised Code, up to 69666

\$1,000,000 in each fiscal year shall be transferred from moneys in 69667

the Facilities Establishment Fund (Fund 037) to the Family Farm 69668

Loan Fund (Fund 5H1) in the Department of Development. These 69669
moneys shall be used for loan guarantees. The transfer is subject 69670
to Controlling Board approval. 69671

Financial assistance from the Family Farm Loan Fund (Fund 69672
5H1) shall be repaid to Fund 5H1. This fund is established in 69673
accordance with sections 166.031, 901.80, 901.81, 901.82, and 69674
901.83 of the Revised Code. 69675

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, 69676
all outstanding balances, all loan repayments, and any other 69677
outstanding obligations shall revert to the Facilities 69678
Establishment Fund (Fund 037). 69679

Section 203.24.03. FERTILIZER-RELATED LICENSURE AND 69680
REGISTRATION 69681

To facilitate implementation of the new schedule for 69682
fertilizer-related licensure, registration, and reporting 69683
established under sections 905.32, 905.33, 905.331, and 905.36 of 69684
the Revised Code, as amended by this act, all of the following 69685
apply: 69686

(A) With regard to licenses for which applications for the 69687
license period beginning July 1, 2005, have been submitted under 69688
sections 905.32 and 905.331 of the Revised Code as those sections 69689
existed prior to their amendment by this act, a license shall be 69690
issued for a period beginning on July 1, 2005, and ending on 69691
November 30, 2005, and shall expire on November 30, 2005. 69692

(B) With regard to registrations of a specialty fertilizer 69693
for which applications for the registration period beginning July 69694
1, 2005, have been submitted under section 905.33 of the Revised 69695
Code as that section existed prior to its amendment by this act, a 69696
registration shall be issued for the period beginning on July 1, 69697
2005, and ending on November 30, 2005, and shall expire on 69698

November 30, 2005. 69699

(C) A person who is required to submit a tonnage report 69700
within thirty days of June 30, 2005, under section 905.36 of the 69701
Revised Code as that section existed prior to its amendments by 69702
this act shall submit the report by that date. However, the person 69703
shall submit a new annual tonnage report by November 30, 2005, as 69704
required by section 905.36 of the Revised Code as amended by this 69705
act. 69706

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND 69707
LABORATORY FUND 69708

The Commercial Feed, Fertilizer, Seed, and Lime Inspection 69709
and Laboratory Fund created in section 905.38 of the Revised Code, 69710
as amended by this act, is a continuation of the Commerical Feed, 69711
Fertilizer, and Lime Inspection and Laboratory Fund that was 69712
created in that section prior to its amendment by this act. 69713
Notwithstanding any other provision of law to the contrary, the 69714
Seed Fund (5Z4) created in section 907.16 of the Revised Code 69715
shall cease to exist, effective July 1, 2005. All assets, 69716
liabilities, revenues, and obligations associated with the Seed 69717
Fund (5Z4) are hereby transferred to the Commerical Feed, 69718
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 69719
4C9) on July 1, 2005. 69720

Effective July 1, 2005, or as soon thereafter as possible, 69721
the Director of Agriculture shall certify to the Director of 69722
Budget and Management the cash balance in the Seed Fund (5Z4), 69723
which was merged in section 907.16 of the Revised Code, as amended 69724
by this act. The Director of Budget and Management shall transfer 69725
the certified amount to the Commercial Feed, Fertilizer, Seed, and 69726
Lime Inspection and Laboratory Fund (Fund 4C9), which is created 69727
in section 907.16 of the Revised Code, formerly named the Seed 69728
Fund. The Director shall cancel any existing encumbrances against 69729

appropriation item 700-642, Seed Program, and re-establish them 69730
against appropriation item 700-605, Feed, Fertilizer, Seed, and 69731
Lime Inspection. The amounts of the re-established encumbrances 69732
are hereby appropriated. 69733

METROLOGY LAB AND SCALE CERTIFICATION FUND 69734

The Metrology and Scale Certification Fund created in section 69735
1327.511 of the Revised Code, as amended by this act, is a 69736
continuation of the Scale Certification Fund that was created in 69737
that section prior to its amendment by this act. Notwithstanding 69738
any other provision of law to the contrary, the Scale 69739
Certification Fund (Fund 579) created in section 1327.511 of the 69740
Revised Code shall cease to exist, effective July 1, 2005. All 69741
assets, liabilities, revenues, and obligations associated with the 69742
Scale Certification Fund (Fund 579) are hereby transferred to the 69743
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1, 69744
2005. 69745

Effective July 1, 2005, or as soon thereafter as possible, 69746
the Director of Agriculture shall certify to the Director of 69747
Budget and Management the cash balance in the Scale Certification 69748
Fund (Fund 579), which was merged in section 1327.511 of the 69749
Revised Code, as amended by this act. The Director of Budget and 69750
Management shall transfer the certified amount to the Metrology 69751
Laboratory and Scale Certification Fund (Fund 5H2) which is 69752
created in section 1327.511 of the Revised Code, formerly named 69753
the Scale Certification Laboratory Fund. The Director shall cancel 69754
any existing encumbrances against appropriation item 700-630, 69755
Scale Certification, and re-establish them against appropriation 69756
item 700-608, Metrology Lab. The amounts of the re-established 69757
encumbrances are hereby appropriated. 69758

ANIMAL AND CONSUMER ANALYTICAL LABORATORY SERVICES FUND 69759

Notwithstanding any other provision of law to the contrary, 69760

the Animal Industry Laboratory Fees Fund (Fund 4V5) created in
division (E)(1) of section 901.43 of the Revised Code shall cease
to exist, effective July 1, 2005. All assets, liabilities,
revenues, and obligations associated with the Animal Industry
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal
and Consumer Analytical Laboratory Services Fund (Fund 652) on
July 1, 2005.

Effective July 1, 2005, or as soon thereafter as possible,
the Director of Agriculture shall certify to the Director Budget
and Management the cash balance in the Animal Industry Laboratory
Fund (Fund 4V5), which was merged in division (E)(1) of section
901.43 of the Revised Code, as amended by this act. The Director
of Budget and Management shall transfer the certified amount to
the Animal and Consumer Analytical Laboratory Services Fund (Fund
652) which is created in division (E)(2) of section 901.43 of the
Revised Code, formerly named the Animal Industry Laboratory Fund.
The Director of Budget and Management shall cancel any existing
encumbrances against appropriation item 700-615, Animal Industry
Lab Fees, and re-establish them against appropriation item
700-634, Laboratory Services. The amounts of the re-established
encumbrances are hereby appropriated.

PESTICIDE REGISTRATION AND INSPECTION FEE

The registration and inspection fee established in rules
adopted under section 921.16 of Revised Code for the purposes of
section 921.02 of the Revised Code, as that section existed prior
to its amendment by this act, that are in effect on January 1,
2005, shall remain in effect until the new fees established in
section 921.02 of the Revised Code as amended by this act take
effect on January 1, 2007.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700-632, Clean Ohio

Agricultural Easement, shall be used by the Department of 69792
 Agriculture in administering sections 901.21, 901.22, and 5301.67 69793
 to 5301.70 of the Revised Code. 69794

TRANSFER BETWEEN FUNDS 69795

For fiscal years 2006 and 2007, if the cash credited to the 69796
 Commercial Feed, Fertilizer, Seed, and Lime Inspection and 69797
 Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 69798
 669) exceeds the amount necessary to administer the programs for 69799
 which they were intended, the Director of Agriculture may certify 69800
 the amount to the Director of Budget and Management. The Director 69801
 of Budget and Management may transfer the cash to any other fund 69802
 administered by the Director of Agriculture. 69803

Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY 69804

General Revenue Fund 69805

GRF 898-402 Coal Development	\$	568,814	\$	573,814	69806
Office					

GRF 898-901 Coal R&D General	\$	7,071,100	\$	8,980,800	69807
Obligation Debt					
Service					

TOTAL GRF General Revenue Fund	\$	7,639,914	\$	9,554,614	69808
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Agency Fund Group 69809

4Z9 898-602 Small Business	\$	263,165	\$	264,196	69810
Ombudsman					

5A0 898-603 Small Business	\$	71,087	\$	71,087	69811
Assistance					

570 898-601 Operating Expenses	\$	256,875	\$	263,693	69812
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TOTAL AGY Agency Fund Group	\$	591,127	\$	598,976	69813
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Coal Research/Development Fund 69814

046 898-604 Coal Research and	\$	10,000,000	\$	10,000,000	69815
Development Fund					

TOTAL 046 Coal	\$	10,000,000	\$	10,000,000	69816
Research/Development Fund					
TOTAL ALL BUDGET FUND GROUPS	\$	18,231,041	\$	20,153,590	69817
COAL DEVELOPMENT OFFICE					69818
The foregoing appropriation item GRF 898-402, Coal					69819
Development Office, shall be used for the administrative costs of					69820
the Coal Development Office.					69821
COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE					69822
The foregoing appropriation item GRF 898-901, Coal R & D					69823
General Obligation Debt Service, shall be used to pay all debt					69824
service and related financing costs at the times they are required					69825
to be made under sections 151.01 and 151.07 of the Revised Code					69826
during the period from July 1, 2005, to June 30, 2007. The Office					69827
of the Sinking Fund or the Director of Budget and Management shall					69828
effectuate the required payments by intrastate transfer voucher.					69829
SCIENCE AND TECHNOLOGY COLLABORATION					69830
The Air Quality Development Authority shall work in close					69831
collaboration with the Department of Development, the Board of					69832
Regents, and the Third Frontier Commission in relation to					69833
appropriation items and programs referred to as Alignment Programs					69834
in the following paragraph, and other technology-related					69835
appropriations and programs in the Department of Development, Air					69836
Quality Development Authority, and the Board of Regents as those					69837
agencies may designate, to ensure implementation of a coherent					69838
state strategy with respect to science and technology.					69839
To the extent permitted by law, the Air Quality Development					69840
Authority shall assure that coal research and development					69841
programs, proposals, and projects consider or incorporate					69842
appropriate collaborations with Third Frontier Project programs					69843
and grantees and with Alignment Programs and grantees.					69844

"Alignment Programs" means: appropriation items 195-401, 69845
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 69846
Third Frontier Action Fund; 898-604, Coal Research and Development 69847
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 69848
Institute of Technology; 235-510, Ohio Supercomputer Center; 69849
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 69850
235-535, Ohio Agricultural Research and Development Center; 69851
235-553, Dayton Area Graduate Studies Institute; 235-554, 69852
Priorities in Collaborative Graduate Education; 235-556, Ohio 69853
Academic Resources Network; and 195-435, Biomedical Research and 69854
Technology Transfer Trust. 69855

Consistent with the recommendations of the Governor's 69856
Commission on Higher Education and the Economy, Alignment Programs 69857
shall be managed and administered (1) to build on existing 69858
competitive research strengths, (2) to encourage new and emerging 69859
discoveries and commercialization of ideas and products that will 69860
benefit the Ohio economy, and (3) to assure improved collaboration 69861
among Alignment Programs, with programs administered by the Third 69862
Frontier Commission, and with other state programs that are 69863
intended to improve economic growth and job creation. 69864

As directed by the Third Frontier Commission, Alignment 69865
Program managers shall report to the Commission or to the Third 69866
Frontier Advisory Board on the contributions of their programs to 69867
achieving the objectives stated in the preceding paragraph. 69868

Each alignment program shall be reviewed annually by the 69869
Third Frontier Commission with respect to its development of 69870
complementary relationships within a combined state science and 69871
technology investment portfolio and its overall contribution to 69872
the state's science and technology strategy, including the 69873
adoption of appropriately consistent criteria for: (1) the 69874
scientific merit of activities supported by the program; (2) the 69875
relevance of the program's activities to commercial opportunities 69876

in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds. Each alignment program shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

Requirements for high-performance computing facilities and services, including both hardware and software, shall be specifically addressed in all proposals for Third Frontier and Alignment Program funding. Where such facilities and services individually or collectively exceed approximately \$100,000 for a proposal, the Ohio Supercomputer Center shall convene a panel of experts to review the proposal to determine, for the consideration of the Third Frontier Commission, whether the proposed project requirements can be met through Ohio Supercomputer Center facilities or through other means.

Section 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund				69903	
GRF 038-321 Operating Expenses	\$	1,128,275	\$	1,128,275	69904
GRF 038-401 Treatment Services	\$	35,593,265	\$	36,661,063	69905
GRF 038-404 Prevention Services	\$	1,021,483	\$	1,052,127	69906
TOTAL GRF General Revenue Fund	\$	37,743,023	\$	38,841,465	69907

General Services Fund				69908
5T9 038-616 Problem Gambling	\$	285,000	\$ 285,000	69909
Services				
TOTAL GSF General Services Fund	\$	285,000	\$ 285,000	69910
Group				
Federal Special Revenue Fund Group				69911
3G3 038-603 Drug Free Schools	\$	3,500,000	\$ 3,500,000	69912
3G4 038-614 Substance Abuse Block	\$	73,000,000	\$ 73,000,000	69913
Grant				
3H8 038-609 Demonstration Grants	\$	7,093,075	\$ 7,093,075	69914
3J8 038-610 Medicaid	\$	42,000,000	\$ 46,000,000	69915
3N8 038-611 Administrative	\$	500,000	\$ 500,000	69916
Reimbursement				
TOTAL FED Federal Special Revenue				69917
Fund Group	\$	126,093,075	\$ 130,093,075	69918
State Special Revenue Fund Group				69919
475 038-621 Statewide Treatment	\$	17,500,000	\$ 18,000,000	69920
and Prevention				
689 038-604 Education and	\$	350,000	\$ 350,000	69921
Conferences				
TOTAL SSR State Special Revenue				69922
Fund Group	\$	17,850,000	\$ 18,350,000	69923
TOTAL ALL BUDGET FUND GROUPS	\$	181,971,098	\$ 187,569,540	69924
OPERATING EXPENSES				69925
Of the foregoing appropriation item 038-321, Operating				69926
Expenses, \$50,000 in each fiscal year shall be distributed				69927
directly to the Talbert House.				69928
TREATMENT SERVICES				69929
Of the foregoing appropriation item 038-401, Treatment				69930
Services, not more than \$8,190,000 shall be used by the Department				69931
of Alcohol and Drug Addiction Services for program grants for				69932

priority populations in each year of the biennium.	69933
SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN	69934
Of the foregoing appropriation item 038-401, Treatment	69935
Services, \$4 million in each fiscal year shall be used to provide	69936
substance abuse services to families involved in the child welfare	69937
system under the requirements of Am. Sub. H.B. 484 of the 122nd	69938
General Assembly.	69939
SERVICES FOR TANF-ELIGIBLE INDIVIDUALS	69940
Of the foregoing appropriation item 038-401, Treatment	69941
Services, \$5 million each year shall be used to fund TANF-eligible	69942
expenditures for substance abuse prevention and treatment services	69943
to children, or their families, whose income is at or below 200	69944
per cent of the official income poverty guideline. The Director of	69945
Alcohol and Drug Addiction Services and the Director of Job and	69946
Family Services shall develop operating and reporting guidelines	69947
for these programs.	69948
THERAPEUTIC COMMUNITIES	69949
Of the foregoing appropriation item 038-401, Treatment	69950
Services, \$750,000 shall be used in each fiscal year for expansion	69951
of the Therapeutic Communities Program in the Department of	69952
Rehabilitation and Correction.	69953
PARENT AWARENESS TASK FORCE	69954
The Parent Awareness Task Force shall study ways to engage	69955
more parents in activities, coalitions, and educational programs	69956
in Ohio relating to alcohol and other drug abuse prevention. Of	69957
the foregoing appropriation item 038-404, Prevention Services,	69958
\$30,000 in each fiscal year may be used to support the functions	69959
of the Parent Awareness Task Force.	69960
Section 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS	69961

General Services Fund Group				69962
4K9 891-609 Operating Expenses	\$	489,197	\$ 489,197	69963
TOTAL GSF General Services Fund				69964
Group	\$	489,197	\$ 489,197	69965
TOTAL ALL BUDGET FUND GROUPS	\$	489,197	\$ 489,197	69966

Section 203.39. ART OHIO ARTS COUNCIL 69968

General Revenue Fund				69969
GRF 370-100 Personal Services	\$	1,798,235	\$ 1,798,235	69970
GRF 370-200 Maintenance	\$	459,746	\$ 459,746	69971
GRF 370-300 Equipment	\$	4,700	\$ 4,700	69972
GRF 370-502 Program Subsidies	\$	7,975,480	\$ 7,975,480	69973
TOTAL GRF General Revenue Fund	\$	10,238,161	\$ 10,238,161	69974

General Services Fund Group				69975
4B7 370-603 Per Cent for Art	\$	86,366	\$ 86,366	69976

Acquisitions

460 370-602 Gifts and Donations	\$	400,000	\$ 400,000	69977
TOTAL GSF General Services Fund	\$	486,366	\$ 486,366	69978

Group

Federal Special Revenue Fund Group				69979
314 370-601 Federal Programs	\$	1,537,200	\$ 1,537,200	69980
TOTAL FED Federal Special Revenue	\$	1,537,200	\$ 1,537,200	69981

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	12,261,727	\$ 12,261,727	69982
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PROGRAM SUBSIDIES 69983

A museum is not eligible to receive funds from appropriation 69984
item 370-502, Program Subsidies, if \$8,000,000 or more in capital 69985
appropriations were appropriated by the state for the museum 69986
between January 1, 1986, and December 31, 2002. 69987

Section 203.42. AFC OHIO CULTURAL FACILITIES COMMISSION 69988

General Revenue Fund				69989
GRF 371-321 Operating Expenses	\$	198,406	\$ 195,707	69990
GRF 371-401 Lease Rental Payments	\$	38,126,600	\$ 38,246,500	69991
TOTAL GRF General Revenue Fund	\$	38,325,006	\$ 38,442,207	69992
State Special Revenue Fund Group				69993
4T8 371-601 Riffe Theatre	\$	81,000	\$ 81,000	69994
Equipment Maintenance				
4T8 371-603 Project Administration	\$	920,448	\$ 983,295	69995
TOTAL SSR State Special Revenue	\$	1,001,448	\$ 1,064,295	69996
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	39,326,454	\$ 39,506,502	69997
LEASE RENTAL PAYMENTS				69998
The foregoing appropriation item 371-401, Lease Rental				69999
Payments, shall be used for payments to the Ohio Building				70000
Authority and the Treasurer of State for the period from July 1,				70001
2005, to June 30, 2007, under the primary leases and agreements				70002
for those arts and sports facilities made under Chapters 152. and				70003
154. of the Revised Code, but limited to the aggregate amount of				70004
\$76,373,100. This appropriation is the source of funds pledged for				70005
bond service charges on related obligations issued pursuant to				70006
Chapter 152. of the Revised Code.				70007
OPERATING EXPENSES				70008
The foregoing appropriation item 371-321, Operating Expenses,				70009
shall be used by the Ohio Cultural Facilities Commission to carry				70010
out its responsibilities under this section and Chapter 3383. of				70011
the Revised Code.				70012
By July 10, 2005, or as soon as possible thereafter, the				70013
Director of Budget and Management shall determine the amount of				70014
cash from interest earnings to be transferred from the Ohio				70015
Cultural Facilities Building Fund (Fund 030) to the AFC				70016
Administration Fund (Fund 4T8).				70017

By July 10, 2006, or as soon as possible thereafter, the 70018
 Director of Budget and Management shall determine the amount of 70019
 cash from interest earnings to be transferred from the Ohio 70020
 Cultural Facilities Building Fund (Fund 030) to the AFC 70021
 Administration Fund (Fund 4T8). 70022

Section 203.45. ATH ATHLETIC COMMISSION 70023

General Services Fund Group 70024
 4K9 175-609 Operating Expenses \$ 248,150 \$ 0 70025
 TOTAL GSF General Services Fund \$ 248,150 \$ 0 70026
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 248,150 \$ 0 70027

Section 203.48. AGO ATTORNEY GENERAL 70029

General Revenue Fund 70030
 GRF 055-321 Operating Expenses \$ 42,118,150 \$ 52,610,156 70031
 GRF 055-411 County Sheriffs' Pay \$ 760,495 \$ 779,509 70032
 Supplement
 GRF 055-415 County Prosecutors' \$ 740,704 \$ 759,222 70033
 Pay Supplement
 TOTAL GRF General Revenue Fund \$ 43,619,349 \$ 54,148,887 70034
 General Services Fund Group 70035
 106 055-612 General Reimbursement \$ 21,370,196 \$ 21,370,196 70036
 107 055-624 Employment Services \$ 850,000 \$ 850,000 70037
 195 055-660 Workers' Compensation \$ 7,769,628 \$ 7,769,628 70038
 Section
 4Y7 055-608 Title Defect \$ 250,000 \$ 250,000 70039
 Rescission
 4Z2 055-609 BCI Asset Forfeiture \$ 1,332,109 \$ 1,332,109 70040
 and Cost Reimbursement
 418 055-615 Charitable Foundations \$ 4,899,066 \$ 4,899,066 70041
 420 055-603 Attorney General \$ 446,449 \$ 446,449 70042

		Antitrust					
421	055-617	Police Officers' Training Academy Fee	\$	1,693,213	\$	1,693,213	70043
5A9	055-618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500	70044
590	055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370	70045
629	055-636	Corrupt Activity Investigation and Prosecution	\$	15,000	\$	15,000	70046
631	055-637	Consumer Protection Enforcement	\$	1,373,832	\$	1,373,832	70047
TOTAL GSF General Services Fund Group							70048
			\$	40,105,363	\$	40,105,363	70049
Federal Special Revenue Fund Group							70050
3E5	055-638	Attorney General Pass-Through Funds	\$	1,981,102	\$	1,981,102	70051
3R6	055-613	Attorney General Federal Funds	\$	3,842,097	\$	3,842,097	70052
306	055-620	Medicaid Fraud Control	\$	2,799,000	\$	2,799,000	70053
381	055-611	Civil Rights Legal Service	\$	390,815	\$	390,815	70054
383	055-634	Crime Victims Assistance	\$	18,439,313	\$	18,439,313	70055
TOTAL FED Federal Special Revenue Fund Group							70056
			\$	27,452,327	\$	27,452,327	70057
State Special Revenue Fund Group							70058
4L6	055-606	DARE	\$	3,927,962	\$	3,927,962	70059
402	055-616	Victims of Crime	\$	30,000,000	\$	30,000,000	70060
419	055-623	Claims Section	\$	23,671,954	\$	15,149,954	70061
659	055-641	Solid and Hazardous Waste Background	\$	621,159	\$	621,159	70062

Investigations

TOTAL SSR State Special Revenue				70063	
Fund Group	\$	58,221,075	\$	49,699,075	70064
Holding Account Redistribution Fund Group				70065	
R04 055-631 General Holding	\$	275,000	\$	275,000	70066
Account					
R05 055-632 Antitrust Settlements	\$	1,000	\$	1,000	70067
R18 055-630 Consumer Frauds	\$	300,000	\$	300,000	70068
R42 055-601 Organized Crime	\$	25,025	\$	25,025	70069
Commission Account					
TOTAL 090 Holding Account				70070	
Redistribution Fund Group	\$	601,025	\$	601,025	70071
TOTAL ALL BUDGET FUND GROUPS	\$	169,999,139	\$	172,006,677	70072

COUNTY SHERIFFS' PAY SUPPLEMENT 70073

The foregoing appropriation item 055-411, County Sheriffs' 70074
 Pay Supplement, shall be used for the purpose of supplementing the 70075
 annual compensation of county sheriffs as required by section 70076
 325.06 of the Revised Code. 70077

COUNTY PROSECUTORS' PAY SUPPLEMENT 70078

The foregoing appropriation item 055-415, County Prosecutors' 70079
 Pay Supplement, shall be used for the purpose of supplementing the 70080
 annual compensation of certain county prosecutors as required by 70081
 section 325.111 of the Revised Code. 70082

WORKERS' COMPENSATION SECTION 70083

The Workers' Compensation Section Fund (Fund 195) is entitled 70084
 to receive payments from the Bureau of Workers' Compensation and 70085
 the Ohio Industrial Commission at the beginning of each quarter of 70086
 each fiscal year to fund legal services to be provided to the 70087
 Bureau of Workers' Compensation and the Ohio Industrial Commission 70088
 during the ensuing quarter. The advance payment shall be subject 70089
 to adjustment. 70090

In addition, the Bureau of Workers' Compensation shall 70091
transfer payments at the beginning of each quarter for the support 70092
of the Workers' Compensation Fraud Unit. 70093

All amounts shall be mutually agreed upon by the Attorney 70094
General, the Bureau of Workers' Compensation, and the Ohio 70095
Industrial Commission. 70096

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 70097

The foregoing appropriation item 055-636, Corrupt Activity 70098
Investigation and Prosecution, shall be used as provided by 70099
division (D)(2) of section 2923.35 of the Revised Code to dispose 70100
of the proceeds, fines, and penalties credited to the Corrupt 70101
Activity Investigation and Prosecution Fund, which is created in 70102
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 70103
is determined that additional amounts are necessary for this 70104
purpose, the amounts are hereby appropriated. 70105

FEDERAL PASS-THROUGH FUNDS 70106

The foregoing appropriation item 055-638, Attorney General 70107
Pass-Through Funds, shall be used to receive federal grant funds 70108
provided to the Attorney General by other state agencies, 70109
including, but not limited to, the Department of Youth Services 70110
and the Department of Public Safety. (These grants or subgrants 70111
generally pertain to criminal justice activities such as law 70112
enforcement or victims' services.) 70113

ANTITRUST SETTLEMENTS 70114

The foregoing appropriation item 055-632, Antitrust 70115
Settlements, shall be used to distribute court-ordered antitrust 70116
settlements in which the Office of Attorney General represents the 70117
state or a political subdivision under section 109.81 of the 70118
Revised Code. If it is determined that additional amounts are 70119
necessary for this purpose, the amounts are hereby appropriated. 70120

CONSUMER FRAUDS 70121

The foregoing appropriation item 055-630, Consumer Frauds, 70122
shall be used for distribution of moneys from court-ordered 70123
judgments against sellers in actions brought by the Office of 70124
Attorney General under sections 1334.08 and 4549.48 and division 70125
(B) of section 1345.07 of the Revised Code. These moneys shall be 70126
used to provide restitution to consumers victimized by the fraud 70127
that generated the court-ordered judgments. If it is determined 70128
that additional amounts are necessary for this purpose, the 70129
amounts are hereby appropriated. 70130

ORGANIZED CRIME COMMISSION ACCOUNT 70131

The foregoing appropriation item 055-601, Organized Crime 70132
Commission Account, shall be used by the Organized Crime 70133
Investigations Commission, as provided by section 177.011 of the 70134
Revised Code, to reimburse political subdivisions for the expenses 70135
the political subdivisions incur when their law enforcement 70136
officers participate in an organized crime task force. If it is 70137
determined that additional amounts are necessary for this purpose, 70138
the amounts are hereby appropriated. 70139

Section 203.51. AUD AUDITOR OF STATE 70140

General Revenue Fund 70141

GRF 070-321 Operating Expenses \$ 28,964,425 \$ 28,964,425 70142

GRF 070-403 Fiscal Watch/Emergency \$ 500,000 \$ 500,000 70143

Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193 70144

Processing - Auditing
and Administration

GRF 070-406 Uniform Accounting \$ 1,588,538 \$ 1,588,538 70145

Network/Technology
Improvements Fund

TOTAL GRF General Revenue Fund	\$	31,876,156	\$	31,876,156	70146
Auditor of State Fund Group					70147
R06 070-604 Continuous Receipts	\$	35,000	\$	35,000	70148
109 070-601 Public Audit Expense -	\$	9,300,000	\$	9,300,000	70149
Intra-State					
422 070-601 Public Audit Expense -	\$	31,104,840	\$	31,104,840	70150
Local Government					
584 070-603 Training Program	\$	131,250	\$	131,250	70151
675 070-605 Uniform Accounting	\$	3,317,336	\$	3,317,336	70152
Network					
TOTAL AUS Auditor of State Fund					70153
Group	\$	43,888,426	\$	43,888,426	70154
TOTAL ALL BUDGET FUND GROUPS	\$	75,764,582	\$	75,764,582	70155
FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE					70156
The foregoing appropriation item 070-403, Fiscal					70157
Watch/Emergency Technical Assistance, shall be used for all					70158
expenses incurred by the Office of the Auditor of State in its					70159
role relating to fiscal watch or fiscal emergency activities under					70160
Chapters 118. and 3316. of the Revised Code. Expenses include, but					70161
are not limited to, the following: duties related to the					70162
determination or termination of fiscal watch or fiscal emergency					70163
of municipal corporations, counties, or townships as outlined in					70164
Chapter 118. of the Revised Code and of school districts as					70165
outlined in Chapter 3316. of the Revised Code; development of					70166
preliminary accounting reports; performance of annual forecasts;					70167
provision of performance audits; and supervisory, accounting, or					70168
auditing services for the mentioned public entities and school					70169
districts. The unencumbered balance of appropriation item 070-403,					70170
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal					70171
year 2006 is transferred to fiscal year 2007 for use under the					70172
same appropriation item.					70173
ELECTRONIC DATA PROCESSING					70174

The unencumbered balance of appropriation item 070-405,
 Electronic Data Processing - Auditing and Administration, at the
 end of fiscal year 2006 is transferred to fiscal year 2007 for use
 under the same appropriation item.

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND

The foregoing appropriation item 070-406, Uniform Accounting
 Network/Technology Improvements Fund, shall be used to pay the
 costs of developing and implementing the Uniform Accounting
 Network and technology improvements for the Office of the Auditor
 of State. The unencumbered balance of the appropriation at the end
 of fiscal year 2006 is transferred to fiscal year 2007 to pay the
 costs of developing and implementing the Uniform Accounting
 Network and technology improvements for the Office of the Auditor
 of State.

Section 203.54. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group				70189
4K9 877-609 Operating Expenses	\$	568,126	\$ 0	70190
TOTAL GSF General Services Fund				70191
Group	\$	568,126	\$ 0	70192
TOTAL ALL BUDGET FUND GROUPS	\$	568,126	\$ 0	70193

Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund				70194
GRF 042-321 Budget Development and	\$	2,143,886	\$ 2,143,886	70195
Implementation				
GRF 042-410 National Association	\$	27,089	\$ 28,173	70196
Dues				
GRF 042-412 Audit of Auditor of	\$	55,900	\$ 58,700	70197
State				
GRF 042-435 Gubernatorial	\$	0	\$ 250,000	70198
Transition				

TOTAL GRF General Revenue Fund	\$	2,226,875	\$	2,480,759	70202
General Services Fund Group					70203
105 042-603 Accounting and Budgeting	\$	9,781,085	\$	9,976,689	70204
TOTAL GSF General Services Fund Group	\$	9,781,085	\$	9,976,689	70205
State Special Revenue Fund Group					70206
5N4 042-602 OAKS Project Implementation	\$	2,262,441	\$	2,272,595	70207
TOTAL SSR State Special Revenue Fund Group	\$	2,262,441	\$	2,272,595	70208
TOTAL ALL BUDGET FUND GROUPS	\$	14,270,401	\$	14,730,043	70209
AUDIT COSTS					70210
Of the foregoing appropriation item 042-603, Accounting and Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000 in fiscal year 2007 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.					70211 70212 70213 70214 70215 70216
OAKS PROJECT IMPLEMENTATION					70217
Notwithstanding section 126.25 of the Revised Code, in fiscal years 2006 and 2007, rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code may be deposited into the OAKS Project Implementation Fund (Fund 5N4).					70218 70219 70220 70221 70222
Section 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					70223
General Revenue Fund					70224
GRF 874-100 Personal Services	\$	1,900,000	\$	1,900,000	70225
GRF 874-320 Maintenance and Equipment	\$	992,269	\$	952,269	70226

TOTAL GRF General Revenue Fund	\$	2,892,269	\$	2,852,269	70227
General Services Fund Group					70228
4G5 874-603 Capitol Square	\$	15,000	\$	15,000	70229
Maintenance Expenses					
4S7 874-602 Statehouse Gift	\$	770,484	\$	770,484	70230
Shop/Events					
TOTAL GSF General Services					70231
Fund Group	\$	785,484	\$	785,484	70232
Underground Parking Garage					70233
208 874-601 Underground Parking	\$	2,959,721	\$	2,959,721	70234
Garage Operating					
TOTAL UPG Underground Parking					70235
Garage	\$	2,959,721	\$	2,959,721	70236
TOTAL ALL BUDGET FUND GROUPS	\$	6,637,474	\$	6,597,474	70237
EXPANSION OF COMMITTEE HEARING ROOMS					70238
Of the foregoing appropriation item 874-320, Maintenance and					70239
Equipment, \$40,000 in fiscal year 2006 shall be used to expand the					70240
House of Representatives committee hearing rooms, numbers 119 and					70241
121.					70242
Section 203.63. SCR STATE BOARD OF CAREER COLLEGES AND					70243
SCHOOLS					70244
General Services Fund Group					70245
4K9 233-601 Operating Expenses	\$	486,700	\$	508,600	70246
TOTAL GSF General Services Fund	\$	486,700	\$	508,600	70247
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	486,700	\$	508,600	70248
Section 203.66. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD					70250
General Services Fund Group					70251
4K9 930-609 Operating Expenses	\$	452,976	\$	0	70252

TOTAL GSF General Services Fund	\$	452,976	\$	0	70253
Group					

TOTAL ALL BUDGET FUND GROUPS	\$	452,976	\$	0	70254
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Section 203.69. CHR STATE CHIROPRACTIC BOARD 70256

General Services Fund Group 70257

4K9 878-609 Operating Expenses	\$	605,278	\$	0	70258
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TOTAL GSF General Services Fund 70259

Group	\$	605,278	\$	0	70260
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TOTAL ALL BUDGET FUND GROUPS	\$	605,278	\$	0	70261
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Section 203.72. CIV OHIO CIVIL RIGHTS COMMISSION 70263

General Revenue Fund 70264

GRF 876-321 Operating Expenses	\$	7,253,075	\$	7,470,667	70265
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TOTAL GRF General Revenue Fund	\$	7,253,075	\$	7,470,667	70266
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Federal Special Revenue Fund Group 70267

334 876-601 Investigations	\$	3,760,000	\$	3,560,000	70268
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TOTAL FED Federal Special Revenue 70269

Fund Group	\$	3,760,000	\$	3,560,000	70270
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State Special Revenue Fund Group 70271

217 876-604 Operations Support	\$	50,951	\$	50,951	70272
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TOTAL SSR State Special 70273

Revenue Fund Group	\$	50,951	\$	50,951	70274
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TOTAL ALL BUDGET FUND GROUPS	\$	11,064,026	\$	11,081,618	70275
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Section 203.75. COM DEPARTMENT OF COMMERCE 70277

General Revenue Fund 70278

GRF 800-410 Labor and Worker	\$	2,086,477	\$	2,032,397	70279
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Safety

Total GRF General Revenue Fund	\$	2,086,477	\$	2,032,397	70280
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General Services Fund Group 70281

163	800-620	Division of Administration	\$	4,262,314	\$	4,368,037	70282
163	800-637	Information Technology	\$	2,733,853	\$	2,785,045	70283
5F1	800-635	Small Government Fire Departments	\$	250,000	\$	250,000	70284
543	800-602	Unclaimed Funds-Operating	\$	7,351,051	\$	7,351,051	70285
543	800-625	Unclaimed Funds-Claims	\$	52,000,000	\$	55,000,000	70286
TOTAL GSF General Services Fund Group							70287
			\$	66,597,218	\$	69,754,133	70288
Federal Special Revenue Fund Group							70289
348	800-622	Underground Storage Tanks	\$	195,008	\$	195,008	70290
348	800-624	Leaking Underground Storage Tanks	\$	1,850,000	\$	1,850,000	70291
TOTAL FED Federal Special Revenue Fund Group							70292
			\$	2,045,008	\$	2,045,008	70293
State Special Revenue Fund Group							70294
4B2	800-631	Real Estate Appraisal Recovery	\$	35,000	\$	35,000	70295
4H9	800-608	Cemeteries	\$	273,465	\$	273,465	70296
4X2	800-619	Financial Institutions	\$	2,200,843	\$	2,200,843	70297
5K7	800-621	Penalty Enforcement	\$	50,000	\$	50,000	70298
544	800-612	Banks	\$	6,757,197	\$	6,759,197	70299
545	800-613	Savings Institutions	\$	2,678,248	\$	2,669,774	70300
546	800-610	Fire Marshal	\$	12,187,994	\$	12,292,994	70301
546	800-639	Fire Department Grants	\$	1,647,140	\$	1,647,140	70302
547	800-603	Real Estate Education/Research	\$	250,000	\$	250,000	70303
548	800-611	Real Estate Recovery	\$	50,000	\$	50,000	70304
549	800-614	Real Estate	\$	3,605,892	\$	3,605,892	70305
550	800-617	Securities	\$	4,300,000	\$	4,400,000	70306

552 800-604 Credit Union	\$	2,936,852	\$	2,941,852	70307
553 800-607 Consumer Finance	\$	4,300,445	\$	4,300,445	70308
556 800-615 Industrial Compliance	\$	25,037,257	\$	25,037,257	70309
6A4 800-630 Real Estate	\$	664,006	\$	664,006	70310
Appraiser-Operating					
653 800-629 UST Registration/Permit Fee	\$	1,249,632	\$	1,249,632	70311
TOTAL SSR State Special Revenue					
Fund Group	\$	68,223,971	\$	68,427,497	70312
Liquor Control Fund Group					
043 800-601 Merchandising	\$	382,595,409	\$	397,839,347	70313
043 800-627 Liquor Control Operating	\$	16,873,183	\$	15,981,346	70314
043 800-633 Development Assistance Debt Service	\$	32,158,300	\$	39,230,000	70315
043 800-636 Revitalization Debt Service	\$	9,740,500	\$	13,485,800	70316
TOTAL LCF Liquor Control					
Fund Group	\$	441,367,392	\$	466,536,493	70317
TOTAL ALL BUDGET FUND GROUPS	\$	580,320,066	\$	608,795,528	70318
SMALL GOVERNMENT FIRE DEPARTMENTS					
Notwithstanding section 3737.17 of the Revised Code, the					
foregoing appropriation item 800-635, Small Government Fire					
Departments, may be used to provide loans to private fire					
departments.					
PENALTY ENFORCEMENT					
The foregoing appropriation item 800-621, Penalty					
Enforcement, shall be used to enforce sections 4115.03 to 4115.16					
of the Revised Code.					
UNCLAIMED FUNDS PAYMENTS					
The foregoing appropriation item 800-625, Unclaimed					

Funds-Claims, shall be used to pay claims under section 169.08 of
the Revised Code. If it is determined that additional amounts are
necessary, the amounts are hereby appropriated. 70333
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UNCLAIMED FUNDS TRANSFERS 70336

Notwithstanding division (A) of section 169.05 of the Revised
Code, prior to June 30, 2006, and upon the request of the Director
of Budget and Management, the Director of Commerce shall transfer
to the General Revenue Fund up to \$50,000,000 of unclaimed funds
that have been reported by holders of unclaimed funds under
section 169.05 of the Revised Code, irrespective of the allocation
of the unclaimed funds under that section. 70337
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Notwithstanding division (A) of section 169.05 of the Revised
Code, prior to June 30, 2007, and upon the request of the Director
of Budget and Management, the Director of Commerce shall transfer
to the General Revenue Fund up to \$50,000,000 of unclaimed funds
that have been reported by holders of unclaimed funds under
section 169.05 of the Revised Code, irrespective of the allocation
of the unclaimed funds under that section. 70344
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CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546) 70351

Effective July 1, 2005, or as soon thereafter as possible,
the Director of Budget and Management shall transfer the cash
balance in the Fire Marshal's Fireworks Training and Education
Fund (Fund 4L5), which is abolished in division (B) of section
3743.57 of the Revised Code as amended by this act, to the State
Fire Marshal's Fund (Fund 546), which is created in section
3737.71 of the Revised Code. The director shall cancel any
existing encumbrances against appropriation item 800-609,
Fireworks Training and Education, in Fund 4L5, and re-establish
them against appropriation item 800-610, Fire Marshal, in Fund
546. The amounts of the re-established encumbrances are hereby
appropriated. 70352
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CASH TRANSFER TO BUDGET STABILIZATION FUND 70364

Notwithstanding any other law to the contrary, the Director 70365
of Budget and Management shall transfer up to \$1,700,000 in cash 70366
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 70367
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 70368
Stabilization Fund. 70369

FIRE DEPARTMENT GRANTS 70370

Of the foregoing appropriation item 800-639, Fire Department 70371
Grants, up to \$760,000 in each fiscal year shall be used to make 70372
annual grants to volunteer fire departments of up to \$10,000, or 70373
up to \$25,000 if the volunteer fire department provides service 70374
for an area affected by a natural disaster. The grant program 70375
shall be administered by the Fire Marshal under the Department of 70376
Commerce. The Fire Marshal shall adopt rules as are necessary for 70377
the administration and operation of the grant program. 70378

Of the foregoing appropriation item 800-639, Fire Department 70379
Grants, up to \$687,140 in each fiscal year shall be used as full 70380
or partial reimbursement to local units of government and fire 70381
departments for the cost of firefighter training and equipment or 70382
gear. Under rules that the department shall adopt, a local unit of 70383
government or fire department may apply to the department for a 70384
grant to cover all documented costs that are incurred to provide 70385
firefighter training and equipment or gear. The department shall 70386
make grants within the limits of the funding provided, with 70387
priority given to fire departments that serve small villages and 70388
townships. 70389

Of the foregoing appropriation item 800-639, Fire Department 70390
Grants, up to \$200,000 in each fiscal year shall be used to make 70391
grants to fire departments to assist in the conversion of existing 70392
data systems to the NFIRS 5 electronic fire reporting system. 70393
Under rules that the department shall adopt, awards shall have a 70394

maximum of \$50,000 per fire department and shall be based on a
point system that includes factors such as consideration of the
fire department's information technology and operating budgets,
population and area served, number of incidents, data conversion
and implementation methods, and readiness.

CASH TRANSFER TO REAL ESTATE OPERATING FUND 70400

At the request of the Director of Commerce, the Director of
Budget and Management may transfer up to \$100,000 in cash from the
Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the
Real Estate Operating Fund (Fund 549) during the 2005-2007
biennium.

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 70407

The foregoing appropriation item 800-601, Merchandising,
shall be used under section 4301.12 of the Revised Code. If it is
determined that additional amounts are necessary, the amounts are
hereby appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE 70412

The foregoing appropriation item 800-633, Development
Assistance Debt Service, shall be used to meet all payments at the
times they are required to be made during the period from July 1,
2005, to June 30, 2007, 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 70424

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, 2005, to June 30, 2007. 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, is entitled to 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 203.78. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group				70441	
5F5 053-601 Operating Expenses	\$	7,770,000	\$	7,770,000	70442
TOTAL GSF General Services Fund Group	\$	7,770,000	\$	7,770,000	70443
TOTAL ALL BUDGET FUND GROUPS	\$	7,770,000	\$	7,770,000	70444

Section 203.81. CEB CONTROLLING BOARD

General Revenue Fund				70447	
GRF 911-401 Emergency	\$	12,150,000	\$	7,000,000	70448
Purposes/Contingencies					
GRF 911-404 Mandate Assistance	\$	650,000	\$	650,000	70449
GRF 911-417 Educational Technology	\$	27,942,693	\$	27,942,693	70450
Fund					
GRF 911-441 Ballot Advertising	\$	300,000	\$	300,000	70451
Costs					

TOTAL GRF General Revenue Fund	\$	41,042,693	\$	35,892,693	70452
General Services Fund Group					70453
4F3 911-603 Affiliate Services	\$	2,000,000	\$	2,000,000	70454
4T2 911-604 Government	\$	150,000	\$	150,000	70455
Television/Telecommunication					
Operating					
5D4 911-605 Conference/Special	\$	1,350,000	\$	1,350,000	70456
Purpose Expenses					
TOTAL GSF General Services Fund	\$	3,500,000	\$	3,500,000	70457
Group					
Federal Special Revenue Fund Group					70458
3S3 911-610 Technology Literacy	\$	589,363	\$	589,363	70459
Challenge					
TOTAL FED Federal Special Revenue	\$	589,363	\$	589,363	70460
Fund Group					
State Special Revenue Fund Group					70461
4W9 911-607 Ohio Telecommunity	\$	50,000	\$	25,000	70462
Fund					
4X1 911-608 Distance Learning	\$	250,000	\$	100,000	70463
5T3 911-609 Gates Foundation	\$	600,000	\$	200,000	70464
Grants					
TOTAL SSR State Special					70465
Revenue Fund Group	\$	900,000	\$	325,000	70466
TOTAL ALL BUDGET FUND GROUPS	\$	46,032,056	\$	40,307,056	70467

FEDERAL SHARE 70468

In transferring appropriations to or from appropriation items 70469
that have federal shares identified in this act, the Controlling 70470
Board shall add or subtract corresponding amounts of federal 70471
matching funds at the percentages indicated by the state and 70472
federal division of the appropriations in this act. Such changes 70473
are hereby appropriated. 70474

DISASTER ASSISTANCE 70475

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from appropriation item 911-401, Emergency Purposes/Contingencies, to Department of Public Safety appropriation items to provide funding for assistance to political subdivisions and individuals made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to or following the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

SOUTHERN OHIO CORRECTIONAL FACILITY COST 70485

The Division of Criminal Justice Services in the Department of Public Safety and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from appropriation item 911-401, Emergency Purposes/Contingencies, for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

MANDATE ASSISTANCE 70493

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two unfunded state mandates:

(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;

(2) The cost to school districts of in-service training for child abuse detection.

(B) The Division of Criminal Justice Services in the 70504

Department of Public Safety 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.

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Division of Criminal Justice Services	\$150,000	70512 70513 70514 70515
Child Abuse Detection Training Costs	Department of Education	\$500,000	70516 70517

(C) Subject to the total amount appropriated in each fiscal
year for appropriation item 911-404, Mandate Assistance, the
Division of Criminal Justice Services in the Department of Public
Safety 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 Division of Criminal Justice Services in the Department of
Public Safety 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 the other program of state financial assistance
identified under this section.

(E) It is expected that not all costs incurred by local units
of government and school districts under each of the two programs
of state financial assistance identified in 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 Division of Criminal

Justice Services in the Department of Public Safety and the 70536
Department of Education and provided by the Controlling Board for 70537
each of the programs; the rules and procedures established for 70538
each program by the administering state agency; and the actual 70539
costs incurred by local units of government and school districts. 70540

(F) Each of these programs of state financial assistance 70541
shall be carried out as follows: 70542

(1) PROSECUTION COSTS 70543

(a) Appropriations may be transferred to the Division of 70544
Criminal Justice Services in the Department of Public Safety to 70545
cover local prosecution costs for aggravated murder, murder, 70546
felonies of the first degree, and felonies of the second degree 70547
that occur on the grounds of institutions operated by the 70548
Department of Rehabilitation and Correction and the Department of 70549
Youth Services. 70550

(b) Upon a delinquency filing in juvenile court or the return 70551
of an indictment for aggravated murder, murder, or any felony of 70552
the first or second degree that was committed at a Department of 70553
Youth Services or a Department of Rehabilitation and Correction 70554
institution, the affected county may, in accordance with rules 70555
that the Division of Criminal Justice Services in the Department 70556
of Public Safety shall adopt, apply to the Division of Criminal 70557
Justice Services for a grant to cover all documented costs that 70558
are incurred by the county prosecutor's office. 70559

(c) Twice each year, the Division of Criminal Justice 70560
Services in the Department of Public Safety shall designate 70561
counties to receive grants from those counties that have submitted 70562
one or more applications in compliance with the rules that have 70563
been adopted by the Division of Criminal Justice Services for the 70564
receipt of such grants. In each year's first round of grant 70565
awards, if sufficient appropriations have been made, up to a total 70566

of \$100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder; second priority shall be given to counties with cases involving a felony of the first degree; and third priority shall be given to counties with cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

(2) CHILD ABUSE DETECTION TRAINING COSTS

Appropriations may be transferred to the Department of Education for disbursement to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the department shall adopt, a local school district may apply to the department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall make grants within the limits of the funding provided.

(G) Any moneys allocated within appropriation item 911-404, Mandate Assistance, not fully utilized may, upon application of the Ohio Public Defender Commission, and with the approval of the Controlling Board, be disbursed to boards of county commissioners to provide additional reimbursement for the costs incurred by counties in providing defense to indigent defendants pursuant to Chapter 120. of the Revised Code. Application for the unutilized

funds shall be made by the Ohio Public Defender Commission at the 70598
 first June meeting of the Controlling Board. 70599

The amount to be disbursed to each county shall be allocated 70600
 proportionately on the basis of the total amount of reimbursement 70601
 paid to each county as a percentage of the amount of reimbursement 70602
 paid to all of the counties during the most recent state fiscal 70603
 year for which data is available and as calculated by the Ohio 70604
 Public Defender Commission. 70605

RADIO READING SERVICES 70606

Of the foregoing appropriation item 911-417, Educational 70607
 Technology Fund, \$45,000 in each fiscal year shall be used for a 70608
 competitive grant for dial-up newspaper reading services for the 70609
 blind and physically handicapped. 70610

BALLOT ADVERTISING COSTS 70611

Pursuant to requests submitted by the Ohio Ballot Board, the 70612
 Controlling Board shall approve transfers from the foregoing 70613
 appropriation item 911-441, Ballot Advertising Costs, to an Ohio 70614
 Ballot Board appropriation item in order to reimburse county 70615
 boards of elections for the cost of public notices associated with 70616
 statewide ballot initiatives. 70617

Section 203.84. COS STATE BOARD OF COSMETOLOGY 70618

General Services Fund Group				70619
4K9 879-609 Operating Expenses	\$	2,929,630	\$	0 70620
TOTAL GSF General Services Fund				70621
Group	\$	2,929,630	\$	0 70622
TOTAL ALL BUDGET FUND GROUPS	\$	2,929,630	\$	0 70623

Section 203.87. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 70625

AND FAMILY THERAPIST BOARD 70626
 General Services Fund Group 70627

4K9 899-609 Operating Expenses	\$	1,058,445	\$	0	70628
TOTAL GSF General Services Fund					70629
Group	\$	1,058,445	\$	0	70630
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,445	\$	0	70631

Section 203.90. CLA COURT OF CLAIMS 70633

General Revenue Fund					70634
GRF 015-321 Operating Expenses	\$	2,598,040	\$	2,678,331	70635
TOTAL GRF General Revenue Fund	\$	2,598,040	\$	2,678,331	70636
State Special Revenue Fund Group					70637
5K2 015-603 CLA Victims of Crime	\$	1,582,684	\$	1,582,684	70638
TOTAL SSR State Special Revenue					70639
Fund Group	\$	1,582,684	\$	1,582,684	70640
TOTAL ALL BUDGET FUND GROUPS	\$	4,180,724	\$	4,261,015	70641

Section 203.93. DEN STATE DENTAL BOARD 70643

General Services Fund Group					70644
4K9 880-609 Operating Expenses	\$	1,424,791	\$	1,424,791	70645
TOTAL GSF General Services Fund					70646
Group	\$	1,424,791	\$	1,424,791	70647
TOTAL ALL BUDGET FUND GROUPS	\$	1,424,791	\$	1,424,791	70648

Section 203.96. BDP BOARD OF DEPOSIT 70650

General Services Fund Group					70651
4M2 974-601 Board of Deposit	\$	1,676,000	\$	1,676,000	70652
TOTAL GSF General Services Fund					70653
Group	\$	1,676,000	\$	1,676,000	70654
TOTAL ALL BUDGET FUND GROUPS	\$	1,676,000	\$	1,676,000	70655

BOARD OF DEPOSIT EXPENSE FUND 70656

Upon receiving certification of expenses from the Treasurer					70657
of State, the Director of Budget and Management shall transfer					70658

cash from the Investment Earnings Redistribution Fund (Fund 608) 70659
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 70660
shall be used to pay for banking charges and fees required for the 70661
operation of the State of Ohio Regular Account. 70662

Section 203.99. DEV DEPARTMENT OF DEVELOPMENT 70663

General Revenue Fund 70664

GRF 195-321 Operating Expenses \$ 2,688,908 \$ 2,688,908 70665

GRF 195-401 Thomas Edison Program \$ 15,454,838 \$ 15,454,838 70666

GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 70667

Development

GRF 195-405 Minority Business \$ 1,580,291 \$ 1,580,291 70668

Development Division

GRF 195-407 Travel and Tourism \$ 6,812,845 \$ 6,712,845 70669

GRF 195-410 Defense Conversion \$ 300,000 \$ 200,000 70670

Assistance

GRF 195-412 Business Development \$ 11,750,000 \$ 11,750,000 70671

Grants

GRF 195-415 Economic Development \$ 5,794,975 \$ 5,894,975 70672

Division and Regional

Offices

GRF 195-416 Governor's Office of \$ 4,122,372 \$ 4,122,372 70673

Appalachia

GRF 195-422 Third Frontier Action \$ 16,790,000 \$ 16,790,000 70674

Fund

GRF 195-426 Clean Ohio \$ 300,000 \$ 300,000 70675

Implementation

GRF 195-432 International Trade \$ 4,223,787 \$ 4,223,787 70676

GRF 195-434 Investment in Training \$ 12,227,500 \$ 12,227,500 70677

Grants

GRF 195-436 Labor/Management \$ 811,869 \$ 811,869 70678

Cooperation

GRF 195-497	CDBG Operating Match	\$	1,040,956	\$	1,040,956	70679
GRF 195-498	State Match Energy	\$	94,000	\$	94,000	70680
GRF 195-501	Appalachian Local	\$	380,080	\$	380,080	70681
	Development Districts					
GRF 195-502	Appalachian Regional	\$	246,803	\$	246,803	70682
	Commission Dues					
GRF 195-507	Travel and Tourism	\$	875,000	\$	725,000	70683
	Grants					
GRF 195-515	Economic Development	\$	10,000,000	\$	0	70684
	Contingency					
GRF 195-905	Third Frontier	\$	0	\$	13,910,000	70685
	Research &					
	Commercialization					
	General Obligation					
	Debt Service					
TOTAL GRF	General Revenue Fund	\$	97,234,946	\$	100,894,946	70686
	General Services Fund Group					70687
135 195-605	Supportive Services	\$	7,450,000	\$	7,539,686	70688
685 195-636	General Reimbursements	\$	1,000,000	\$	1,000,000	70689
5AD 195-667	Investment in Training	\$	5,000,000	\$	5,000,000	70690
	Expansion					
5AD 195-668	Worker Guarantee	\$	3,000,000	\$	3,000,000	70691
	Program					
5AD 195-677	Economic Development	\$	0	\$	10,000,000	70692
	Contingency					
TOTAL GSF	General Services Fund					70693
Group		\$	16,450,000	\$	26,539,686	70694
	Federal Special Revenue Fund Group					70695
3AE 195-643	Workforce Development	\$	5,800,000	\$	5,800,000	70696
	Initiatives					
3K8 195-613	Community Development	\$	65,000,000	\$	65,000,000	70697
	Block Grant					

3K9	195-611	Home Energy Assistance Block Grant	\$	90,500,000	\$	90,500,000	70698
3K9	195-614	HEAP Weatherization	\$	16,219,478	\$	16,219,478	70699
3L0	195-612	Community Services Block Grant	\$	25,235,000	\$	25,235,000	70700
3V1	195-601	HOME Program	\$	40,000,000	\$	40,000,000	70701
308	195-602	Appalachian Regional Commission	\$	600,660	\$	600,660	70702
308	195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000	70703
308	195-605	Federal Projects	\$	15,300,249	\$	15,300,249	70704
308	195-609	Small Business Administration	\$	4,296,381	\$	4,296,381	70705
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	70706
335	195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000	70707
TOTAL FED Federal Special Revenue							70708
Fund Group			\$	274,349,427	\$	274,349,427	70709
State Special Revenue Fund Group							70710
4F2	195-639	State Special Projects	\$	290,183	\$	290,183	70711
4F2	195-676	Promote Ohio	\$	5,000,000	\$	5,000,000	70712
4S0	195-630	Enterprise Zone Operating	\$	275,000	\$	275,000	70713
4S1	195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800	70714
4W1	195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597	70715
444	195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775	70716
450	195-624	Minority Business Bonding Program Administration	\$	53,967	\$	53,967	70717
451	195-625	Economic Development Financing Operating	\$	2,358,311	\$	2,358,311	70718

5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000	70719
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000	70720
5M5	195-660	Energy Efficiency Loan and Grant	\$	12,000,000	\$	12,000,000	70721
5X1	195-651	Exempt Facility Inspection	\$	25,000	\$	25,000	70722
611	195-631	Water and Sewer Administration	\$	15,713	\$	15,713	70723
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000	70724
646	195-638	Low and Moderate Income Housing Trust Fund	\$	46,000,000	\$	48,000,000	70725
TOTAL SSR State Special Revenue							70726
Fund Group			\$	284,698,346	\$	286,698,346	70727
Facilities Establishment Fund Group							70728
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000	70729
010	195-665	Research and Development	\$	50,000,000	\$	50,000,000	70730
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149	70731
4Z6	195-647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000	70732
5D2	195-650	Urban Redevelopment Loans	\$	5,475,000	\$	5,475,000	70733
5H1	195-652	Family Farm Loan Guarantee	\$	1,000,000	\$	1,000,000	70734
5S8	195-627	Rural Development Initiative	\$	3,000,000	\$	3,000,000	70735
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000	70736
TOTAL 037 Facilities							70737
Establishment Fund Group			\$	179,406,149	\$	179,406,149	70738

Clean Ohio Revitalization Fund				70739
003 195-663 Clean Ohio Operating	\$	350,000	\$ 350,000	70740
TOTAL 003 Clean Ohio Revitalization	\$	350,000	\$ 350,000	70741
Fund				
TOTAL ALL BUDGET FUND GROUPS	\$	852,488,868	\$ 868,238,554	70742

Section 203.99.03. THOMAS EDISON PROGRAM 70744

The foregoing appropriation item 195-401, Thomas Edison 70745
Program, shall be used for the purposes of sections 122.28 to 70746
122.38 of the Revised Code in order to provide funds for 70747
cooperative public and private efforts in technological innovation 70748
to promote the development and transfer of technology by and to 70749
Ohio businesses that will lead to the creation of jobs, and to 70750
provide for the administration of the program by the Technology 70751
Division. 70752

Of the foregoing appropriation item 195-401, Thomas Edison 70753
Program, not more than \$2,000,000 in fiscal year 2006 and 70754
\$2,300,000 in fiscal year 2007 shall be used for operating 70755
expenditures in administering the programs of the Technology 70756
Division. 70757

The Department of Development, in consultation with the Third 70758
Frontier Commission, shall develop a plan providing for 70759
appropriate, value-added participation of Edison Centers and 70760
Incubators in Third Frontier Project proposals and grants. 70761

The Department of Development shall work with Edison Centers 70762
and Incubators and the Third Frontier Network, when appropriate, 70763
to provide for Third Frontier Network connections to Edison 70764
Centers and Incubators and their tenants and, as appropriate, 70765
clients. 70766

Section 203.99.06. SMALL BUSINESS DEVELOPMENT 70767

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. 70768
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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. 70771
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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. 70784
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MINORITY BUSINESS DEVELOPMENT DIVISION 70788

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 70789
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necessary and the amount of funding to be provided each. In 70799
addition, the Minority Business Development Division shall 70800
continue to plan and implement business conferences. 70801

Section 203.99.09. BUSINESS DEVELOPMENT 70802

The foregoing appropriation item 195-412, Business 70803
Development Grants, shall be used as an incentive for attracting 70804
and retaining business opportunities for the state. Any such 70805
business opportunity, whether new, expanding, or relocating in 70806
Ohio, is eligible for funding. The project must create or retain a 70807
significant number of jobs for Ohioans. Grant awards may be 70808
considered only when (1) the project's viability hinges on an 70809
award of funds from appropriation item 195-412, Business 70810
Development Grants; (2) all other public or private sources of 70811
financing have been considered; or (3) the funds act as a catalyst 70812
for the infusion into the project of other financing sources. 70813

The department's primary goal shall be to award funds to 70814
political subdivisions of the state for off-site infrastructure 70815
improvements. In order to meet the particular needs of economic 70816
development in a region, the department may elect to award funds 70817
directly to a business for on-site infrastructure improvements. 70818
"Infrastructure improvements" mean improvements to water system 70819
facilities, sewer and sewage treatment facilities, electric or gas 70820
service facilities, fiber optic facilities, rail facilities, site 70821
preparation, and parking facilities. The Director of Development 70822
may recommend the funds be used in an alternative manner when 70823
considered appropriate to meet an extraordinary economic 70824
development opportunity or need. 70825

The foregoing appropriation item 195-412, Business 70826
Development Grants, may be expended only after the submission of a 70827
request to the Controlling Board by the Department of Development 70828
outlining the planned use of the funds, and the subsequent 70829

approval of the request by the Controlling Board.	70830
The foregoing appropriation item 195-412, Business	70831
Development Grants, may be used for, but is not limited to,	70832
construction, rehabilitation, and acquisition projects for rail	70833
freight assistance as requested by the Department of	70834
Transportation. The Director of Transportation shall submit the	70835
proposed projects to the Director of Development for an evaluation	70836
of potential economic benefit.	70837
Section 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL	70838
OFFICES	70839
The foregoing appropriation item 195-415, Economic	70840
Development Division and Regional Offices, shall be used for the	70841
operating expenses of the Economic Development Division and the	70842
regional economic development offices and for grants for	70843
cooperative economic development ventures.	70844
Section 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA	70845
The foregoing appropriation item 195-416, Governor's Office	70846
of Appalachia, shall be used for the administrative costs of	70847
planning and liaison activities for the Governor's Office of	70848
Appalachia. Funds not expended for planning and liaison activities	70849
may be expended for special project grants within the Appalachian	70850
Region.	70851
Of the foregoing appropriation item 195-416, Governor's	70852
Office of Appalachia, up to \$250,000 each fiscal year shall be	70853
used to match federal funds from the Appalachian Regional	70854
Commission to provide job training to impact the Appalachian	70855
Region.	70856
Of the foregoing appropriation item 195-416, Governor's	70857
Office of Appalachia, up to \$4,122,372 in each fiscal year shall	70858

be used in conjunction with other federal and state funds to 70859
provide financial assistance to projects in Ohio's Appalachian 70860
counties in order to further the goals of the Appalachian Regional 70861
Commission. The projects and project sponsors shall meet 70862
Appalachian Regional Commission eligibility requirements. Grants 70863
shall be administered by the Department of Development. 70864

Section 203.99.18. THIRD FRONTIER ACTION FUND 70865

The foregoing appropriation item 195-422, Third Frontier 70866
Action Fund, shall be used to make grants under sections 184.01 70867
and 184.02 of the Revised Code. Prior to the release of funds from 70868
appropriation item 195-422, Third Frontier Action Fund, each grant 70869
award shall be recommended for funding by the Third Frontier 70870
Commission and obtain approval from the Controlling Board. 70871

Of the foregoing appropriation item 195-422, Third Frontier 70872
Action Fund, not more than six per cent in each fiscal year shall 70873
be used for operating expenditures in administering the program. 70874

In addition to the six per cent for operating expenditures, 70875
an additional administrative amount, not to exceed \$1,500,000 70876
within the biennium, shall be available for proposal evaluation, 70877
research and analyses, and marketing efforts considered necessary 70878
to receive and disseminate information about science and 70879
technology-related opportunities in the state. 70880

SCIENCE AND TECHNOLOGY COLLABORATION 70881

The Department of Development shall work in close 70882
collaboration with the Board of Regents, the Air Quality 70883
Development Authority, and the Third Frontier Commission in 70884
relation to appropriation items and programs referred to as 70885
Alignment Programs in the following paragraph, and other 70886
technology-related appropriations and programs in the Department 70887
of Development, Air Quality Development Authority, and the Board 70888

of Regents as these agencies may designate, to ensure 70889
implementation of a coherent state strategy with respect to 70890
science and technology. 70891

"Alignment Programs" means appropriation items 195-401, 70892
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 70893
Third Frontier Action Fund; 898-604, Coal Research and Development 70894
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 70895
Institute of Technology; 235-510, Ohio Supercomputer Center; 70896
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 70897
235-535, Ohio Agricultural Research and Development Center; 70898
235-553, Dayton Area Graduate Studies Institute; 235-554, 70899
Priorities in Collaborative Graduate Education; 235-556, Ohio 70900
Academic Resources Network; and 195-435, Biomedical Research and 70901
Technology Transfer Trust. 70902

Consistent with the recommendations of the Governor's 70903
Commission on Higher Education and the Economy, Alignment Programs 70904
shall be managed and administered in accordance with the following 70905
objectives: (1) to build on existing competitive research 70906
strengths; (2) to encourage new and emerging discoveries and 70907
commercialization of products and ideas that will benefit the Ohio 70908
economy; (3) and to assure improved collaboration among Alignment 70909
Programs with programs administered by the Third Frontier 70910
Commission and with other state programs that are intended to 70911
improve economic growth and job creation. As directed by the Third 70912
Frontier Commission, Alignment Program managers shall report to 70913
the Commission or the Third Frontier Advisory Board regarding the 70914
contributions of their programs to achieving these objectives. 70915

Each Alignment Program shall be reviewed annually by the 70916
Third Frontier Commission with respect to its development of 70917
complementary relationships within a combined state science and 70918
technology investment portfolio, and with respect to its overall 70919
contribution to the state's science and technology strategy, 70920

including the adoption of appropriately consistent criteria for: 70921
(1) the scientific merit of activities supported by the program; 70922
(2) the relevance of the program's activities to commercial 70923
opportunities in the private sector; (3) the private sector's 70924
involvement in a process that continually evaluates commercial 70925
opportunities to use the work supported by the program; and (4) 70926
the ability of the program and recipients of grant funding from 70927
the program to engage in activities that are collaborative, 70928
complementary, and efficient with respect to the expenditures of 70929
state funds. Each Alignment Program shall provide an annual report 70930
to the Third Frontier Commission that discusses existing, planned, 70931
or possible collaborations between programs and between recipients 70932
of grant funding related to technology, development, 70933
commercialization, and the support of Ohio's economic development. 70934
The annual review conducted by the Third Frontier Commission shall 70935
be a comprehensive review of the entire state science and 70936
technology program portfolio rather than a review of individual 70937
programs. 70938

Applicants for Third Frontier and Alignment Programs funding 70939
shall identify their requirements for high-performance computing 70940
facilities and services, including both hardware and software, in 70941
all proposals. If an applicant's requirements exceed approximately 70942
\$100,000 for a proposal, the Ohio Supercomputer Center shall 70943
convene a panel of experts. The panel shall review the proposal to 70944
determine whether the proposal's requirements can be met through 70945
Ohio Supercomputer Center facilities or through other means and 70946
report such information to the Third Frontier Commission. 70947

To ensure that the state receives the maximum benefit from 70948
its investment in the Third Frontier Project and the Third 70949
Frontier Network, organizations receiving Third Frontier awards 70950
and Alignment Programs awards shall, as appropriate, be expected 70951
to have a connection to the Third Frontier Network that enables 70952

them and their collaborators to achieve award objectives through 70953
the Third Frontier Network. 70954

Section 203.99.21. INTERNATIONAL TRADE 70955

The foregoing appropriation item 195-432, International 70956
Trade, shall be used to operate and to maintain Ohio's 70957
out-of-state trade offices. 70958

The Director of Development may enter into contracts with 70959
foreign nationals to staff foreign offices. The contracts may be 70960
paid in local currency or United States currency and shall be 70961
exempt from section 127.16 of the Revised Code. The director also 70962
may establish foreign currency accounts under section 122.05 of 70963
the Revised Code for the payment of expenses related to the 70964
operation and maintenance of the foreign trade offices. 70965

The foregoing appropriation item 195-432, International 70966
Trade, shall be used to fund the International Trade Division and 70967
to assist Ohio manufacturers and agricultural producers in 70968
exporting to foreign countries in conjunction with the Department 70969
of Agriculture. 70970

Of the foregoing appropriation item 195-432, International 70971
Trade, up to \$35,000 may be used to purchase gifts for 70972
representatives of foreign governments or dignitaries of foreign 70973
countries. 70974

Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM 70975

The foregoing appropriation items 195-434, Investment in 70976
Training Grants, and 195-667, Investment in Training Expansion, 70977
shall be used to promote training through grants for the 70978
reimbursement of eligible training expenses. 70979

Section 203.99.27. CDBG OPERATING MATCH 70980

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 Match Energy, 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 203.99.30. 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, \$25,000 in fiscal year 2006 shall be used for the Lorain County Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Greene County Convention and Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$45,000 in each fiscal year shall be used for the Warren County Convention and Visitors Bureau.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Wright Dunbar Historical Site.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission and \$40,000 in each fiscal year shall

be used for the Cleveland Film Commission. 71010

Of the foregoing appropriation item 195-507, Travel and 71011
Tourism Grants, up to \$500,000 in each fiscal year shall be used 71012
for grants to The International Center for the Preservation of 71013
Wild Animals. 71014

Of the foregoing appropriation item 195-507, Travel and 71015
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 71016
Ohio Buckeye Junior Hereford Association. 71017

Of the foregoing appropriation item 195-507, Travel and 71018
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for 71019
grants to the NCR Country Club. 71020

Section 203.99.33. THIRD FRONTIER RESEARCH & 71021
COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE 71022

The foregoing appropriation item 195-905, Third Frontier 71023
Research & Commercialization General Obligation Debt Service, 71024
shall be used to pay all debt service and related financing costs 71025
during the period from July 1, 2005, to June 30, 2007, on 71026
obligations to be issued for research and development purposes, as 71027
authorized by the Ohio Constitution and implementing statutes. The 71028
Office of the Sinking Fund or the Director of Budget and 71029
Management shall effectuate the required payments by intrastate 71030
transfer voucher. 71031

Section 203.99.36. SUPPORTIVE SERVICES 71032

The Director of Development may assess divisions of the 71033
department for the cost of central service operations. An 71034
assessment shall be based on a plan submitted to and approved by 71035
the Office of Budget and Management by August 1, 2005, and shall 71036
contain the characteristics of administrative ease and uniform 71037
application. 71038

A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher. 71039
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GENERAL REIMBURSEMENT 71041

The foregoing appropriation item 195-636, General Reimbursements, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs. 71042
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WORKER GUARANTEE PROGRAM 71048

The foregoing appropriation item 195-668, Worker Guarantee Program, shall be used for the Worker Guarantee Program. 71049
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Benefited employers must create at least 100 high-paying, full-time jobs over a three-year period and must demonstrate prior to the commitment of state funds that the availability of those skilled workers is a major factor in the employer's decision to locate or expand in Ohio. Activities eligible for funding through the Worker Guarantee Program include job assessment services, screening and testing of potential employees, customized training activities, and any other training or related service determined by the Director. 71051
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A local workforce development service provider may include, but is not limited to, a community college, technical or vocational school, one-stop center, or any other entity designated by the Director of Development to provide services under the program. 71060
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State matching funds totaling one-third of a project's cost shall be provided for each approved project when an employer and any local workforce development service provider, in conjunction with the local community, contracts with the Department of 71065
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Development to provide services under the program. The employer 71069
and the local community each shall provide matching funds totaling 71070
one-third of a project's cost, and each portion of the matching 71071
funds shall be equal to state funding, which also shall be 71072
one-third of a project's cost. 71073

The state shall count in-kind contributions when determining 71074
a contribution from entities associated with the local community. 71075

The Director of Development, under Chapter 119. of the 71076
Revised Code, shall adopt, and may amend or rescind, rules the 71077
Director finds necessary for the implementation and successful 71078
operation of the Worker Guarantee Program. 71079

Section 203.99.37. TRAINING SERVICES 71080

Of the foregoing appropriation item 195-605, Federal 71081
Projects, \$400,000 in each fiscal year shall be used for grants to 71082
the Ohio Weatherization Training Center, administered by the 71083
Corporation for Ohio Appalachian Development, for training and 71084
technical assistance services. 71085

Section 203.99.39. HEAP WEATHERIZATION 71086

Fifteen per cent of the federal funds received by the state 71087
for the Home Energy Assistance Block Grant shall be deposited in 71088
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 71089
shall be used to provide home weatherization services in the 71090
state. 71091

Of the foregoing appropriation item 195-614, HEAP 71092
Weatherization, \$200,000 in each fiscal year shall be used for 71093
grants to the Ohio Weatherization Training Center, administered by 71094
the Corporation for Ohio Appalachian Development, for training and 71095
technical assistance services. 71096

STATE SPECIAL PROJECTS 71097

The foregoing fund, Fund 4F2, State Special Projects, shall 71098
be used for the deposit of private-sector funds from utility 71099
companies and for the deposit of other miscellaneous state funds. 71100
Private-sector moneys shall be used to (1) pay the expenses of 71101
verifying the income-eligibility of HEAP applicants, (2) market 71102
economic development opportunities in the state, and (3) leverage 71103
additional federal funds. State funds shall be used to match 71104
federal housing grants for the homeless and to market economic 71105
development opportunities in the state. 71106

Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN 71107

All repayments from the Minority Development Financing 71108
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 71109
Program shall be deposited in the State Treasury to the credit of 71110
the Minority Business Enterprise Loan Fund (Fund 4W1). 71111

All operating costs of administering the Minority Business 71112
Enterprise Loan Fund shall be paid from the Minority Business 71113
Enterprise Loan Fund (Fund 4WI). 71114

MINORITY BUSINESS BONDING FUND 71115

Notwithstanding Chapters 122., 169., and 175. of the Revised 71116
Code and other provisions of Am. Sub. H.B. 283 of the 123rd 71117
General Assembly, the Director of Development may, upon the 71118
recommendation of the Minority Development Financing Advisory 71119
Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of 71120
unclaimed funds administered by the Director of Commerce and 71121
allocated to the Minority Business Bonding Program under section 71122
169.05 of the Revised Code. The transfer of any cash by the 71123
Director of Budget and Management from the Department of 71124
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of 71125
Development's Minority Business Bonding Fund (Fund 449) shall 71126
occur, if requested by the Director of Development, only if such 71127

funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are appropriated.

Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING 71139

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter 166. of the Revised Code and under sections 122.43 and 122.45 of the Revised Code.

VOLUME CAP ADMINISTRATION 71145

The foregoing appropriation item 195-654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 617) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

UNIVERSAL SERVICE FUND 71152

The foregoing appropriation item 195-659, Universal Service, shall be used to provide payments to regulated electric utility companies for low-income customers enrolled in Percentage of Income Payment Plan (PIPP) electric accounts, to fund targeted energy efficiency and customer education services to PIPP

customers, and to cover the department's administrative costs 71158
related to Universal Service Fund Programs. 71159

The foregoing appropriation item 195-678, Shovel Ready Sites, 71160
shall be used to administer the Shovel Ready Sites Program under 71161
section 122.083 of the Revised Code. 71162

ENERGY EFFICIENCY LOAN AND GRANT FUND 71163

The foregoing appropriation item 195-660, Energy Efficiency 71164
Loan and Grant, shall be used to provide financial assistance to 71165
customers for eligible energy efficiency projects for residential, 71166
commercial and industrial business, local government, educational 71167
institution, nonprofit, and agriculture customers, and to pay for 71168
the program's administrative costs as provided in the Revised Code 71169
and rules adopted by the Director of Development. 71170

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS 71171

All payments received by the state pursuant to a series of 71172
settlements with ten brokerage firms reached with the United 71173
States Securities and Exchange Commission, the National 71174
Association of Securities Dealers, the New York Stock Exchange, 71175
the New York Attorney General, and other state regulators 71176
(henceforth referred to as the "Global Analysts Settlement 71177
Agreements"), shall be deposited into the state treasury to the 71178
credit of the Economic Development Contingency Fund (Fund 5Y6), 71179
which is hereby created in the state treasury. The fund shall be 71180
used by the Director of Development to support economic 71181
development projects for which appropriations would not otherwise 71182
be available, and shall be subject to the submission of a request 71183
to the Controlling Board by the Director outlining the planned use 71184
of the funds, and the subsequent approval of the request by the 71185
Controlling Board. 71186

Section 203.99.48. FACILITIES ESTABLISHMENT FUND 71187

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$1,800,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$5,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites Fund (Fund 5CA). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$10,950,000 in cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Urban Redevelopment Loans Fund (Fund 5D2) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project.

Notwithstanding Chapter 166. of the Revised Code, up to \$3,000,000 each fiscal year in cash may be transferred from the Facilities Establishment Fund (Fund 037) to the Rural Industrial Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to

\$1,000,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Guarantee Fund (Fund 5H1) in the Department of Development. The moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Guarantee Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is entitled to receive moneys from the Facilities Establishment Fund (Fund 037). The Director of Development may make grants from the Rural Development Initiative Fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed under section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian counties designated as distressed by the federal Appalachian Regional Commission. The Rural Development Initiative Fund (Fund 5S8) shall cease to exist after June 30, 2007. All moneys remaining in the Fund after that date shall revert to the Facilities Establishment Fund (Fund 037).

(2) The Director of Development shall make grants from the Rural Development Initiative Fund (Fund 5S8) only to eligible applicants who also qualify for and receive funding under the Rural Industrial Park Loan Program as specified in sections 122.23

to 122.27 of the Revised Code. Eligible applicants shall use the grants for the purposes specified in section 122.24 of the Revised Code. All projects supported by grants from the fund are subject to Chapter 4115. of the Revised Code as specified in division (E) of section 166.02 of the Revised Code. The Director shall develop program guidelines for the transfer and release of funds. The release of grant moneys to an eligible applicant is subject to Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 each 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 Rural Development Initiative Fund (Fund 5S8). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

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.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 each 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 under section 166.03 of the Revised Code.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195-664, Innovation Ohio,

shall be used to provide for innovation Ohio purposes, including 71281
loan guarantees and loans under Chapter 166. and particularly 71282
sections 166.12 to 166.16 of the Revised Code. 71283

RESEARCH AND DEVELOPMENT 71284

The foregoing appropriation item 195-665, Research and 71285
Development, shall be used to provide for research and development 71286
purposes, including loans, under Chapter 166. and particularly 71287
sections 166.17 to 166.21 of the Revised Code. 71288

Section 203.99.51. CLEAN OHIO OPERATING EXPENSES 71289

The foregoing appropriation item 195-663, Clean Ohio 71290
Operating, shall be used by the Department of Development in 71291
administering sections 122.65 to 122.658 of the Revised Code. 71292

Section 203.99.54. UNCLAIMED FUNDS TRANSFER 71293

(A) Notwithstanding division (A) of section 169.05 of the 71294
Revised Code, upon the request of the Director of Budget and 71295
Management, the Director of Commerce, prior to June 30, 2006, 71296
shall transfer to the Job Development Initiatives Fund (Fund 5AD) 71297
up to \$8,000,000 of the unclaimed funds that have been reported by 71298
the holders of unclaimed funds under section 169.05 of the Revised 71299
Code, regardless of the allocation of the unclaimed funds 71300
described under that section. 71301

Notwithstanding division (A) of section 169.05 of the Revised 71302
Code, upon the request of the Director of Budget and Management, 71303
the Director of Commerce, prior to June 30, 2007, shall transfer 71304
to the Job Development Initiatives Fund (Fund 5AD) up to 71305
\$18,000,000 of the unclaimed funds that have been reported by the 71306
holders of unclaimed funds under section 169.05 of the Revised 71307
Code, regardless of the allocation of the unclaimed funds 71308
described under that section. 71309

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Section 206.03. OBD OHIO BOARD OF DIETETICS

General Services Fund Group					71327
4K9 860-609 Operating Expenses	\$	332,495	\$	0	71328
TOTAL GSF General Services Fund Group					71329
	\$	332,495	\$	0	71330
TOTAL ALL BUDGET FUND GROUPS	\$	332,495	\$	0	71331

Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

General Revenue Fund					71335
GRF 145-401 Commission on Dispute Resolution/Management	\$	470,000	\$	470,000	71336
TOTAL GRF General Revenue Fund	\$	470,000	\$	470,000	71337
General Services Fund Group					71338
4B6 145-601 Gifts and Grants	\$	140,000	\$	140,000	71339

TOTAL GSF General Services Fund	\$	140,000	\$	140,000	71340
Group					
Federal Special Revenue Fund Group					71341
3S6 145-602 Dispute Resolution:	\$	140,000	\$	140,000	71342
Federal					
TOTAL FED Federal Special Revenue	\$	140,000	\$	140,000	71343
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$	750,000	71344
Section 206.09. EDU DEPARTMENT OF EDUCATION					71346
General Revenue Fund					71347
GRF 200-100 Personal Services	\$	11,311,314	\$	12,311,314	71348
GRF 200-320 Maintenance and	\$	4,996,249	\$	4,996,249	71349
Equipment					
GRF 200-408 Early Childhood	\$	19,002,195	\$	19,002,195	71350
Education					
GRF 200-410 Educator Training	\$	23,423,057	\$	23,923,057	71351
GRF 200-420 Computer/Application/	\$	5,361,525	\$	5,361,525	71352
Network Development					
GRF 200-421 Alternative Education	\$	13,132,665	\$	13,132,665	71353
Programs					
GRF 200-422 School Management	\$	2,683,208	\$	2,710,572	71354
Assistance					
GRF 200-424 Policy Analysis	\$	556,687	\$	556,687	71355
GRF 200-425 Tech Prep Consortia	\$	2,069,217	\$	2,069,217	71356
Support					
GRF 200-426 Ohio Educational	\$	29,676,964	\$	29,676,964	71357
Computer Network					
GRF 200-427 Academic Standards	\$	10,540,753	\$	10,612,181	71358
GRF 200-431 School Improvement	\$	19,862,484	\$	23,191,663	71359
Initiatives					
GRF 200-433 Reading/Writing	\$	15,550,000	\$	15,550,000	71360

		Improvement-Professional Development			
GRF	200-437	Student Assessment	\$ 54,445,234	\$ 60,011,935	71361
GRF	200-439	Accountability/Report	\$ 3,878,850	\$ 6,457,290	71362
		Cards			
GRF	200-442	Child Care Licensing	\$ 1,302,495	\$ 1,302,495	71363
GRF	200-445	OhioReads Volunteer	\$ 3,905,000	\$ 3,905,000	71364
		Support			
GRF	200-446	Education Management	\$ 15,674,805	\$ 15,674,805	71365
		Information System			
GRF	200-447	GED Testing	\$ 1,544,360	\$ 1,544,360	71366
GRF	200-448	Educator Preparation	\$ 1,651,000	\$ 1,651,000	71367
GRF	200-455	Community Schools	\$ 2,942,094	\$ 2,942,094	71368
GRF	200-502	Pupil Transportation	\$ 412,330,728	\$ 420,577,343	71369
GRF	200-503	Bus Purchase Allowance	\$ 8,600,000	\$ 12,500,000	71370
GRF	200-505	School Lunch Match	\$ 8,998,025	\$ 8,998,025	71371
GRF	200-509	Adult Literacy	\$ 8,539,738	\$ 8,539,738	71372
		Education			
GRF	200-511	Auxiliary Services	\$ 127,903,356	\$ 127,903,356	71373
GRF	200-514	Postsecondary Adult	\$ 19,481,875	\$ 19,481,875	71374
		Career-Technical Education			
GRF	200-521	Gifted Pupil Program	\$ 46,910,068	\$ 47,157,293	71375
GRF	200-532	Nonpublic	\$ 56,762,916	\$ 58,068,463	71376
		Administrative Cost Reimbursement			
GRF	200-540	Special Education	\$ 133,894,606	\$ 135,155,125	71377
		Enhancements			
GRF	200-545	Career-Technical	\$ 10,169,442	\$ 9,225,569	71378
		Education Enhancements			
GRF	200-550	Foundation Funding	\$ 5,582,820,663	\$ 5,692,271,366	71379
GRF	200-558	Emergency Loan	\$ 1,388,164	\$ 651,404	71380
		Interest Subsidy			

GRF 200-566	Reading/Writing Improvement-Classroom Grants	\$ 12,062,336	\$ 12,062,336	71381
GRF 200-578	Safe and Supportive Schools	\$ 1,218,555	\$ 1,218,555	71382
GRF 200-901	Property Tax Allocation - Education	\$ 764,626,987	\$ 728,793,318	71383
GRF 200-906	Tangible Tax Exemption - Education	\$ 42,830,487	\$ 32,122,865	71384
TOTAL GRF	General Revenue Fund	\$ 7,482,048,102	\$ 7,571,309,899	71385
	General Services Fund Group			71386
138 200-606	Computer Services-Operational Support	\$ 7,600,091	\$ 7,600,091	71387
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 832,000	\$ 832,000	71388
4L2 200-681	Teacher Certification and Licensure	\$ 5,497,158	\$ 5,628,332	71389
452 200-638	Miscellaneous Educational Services	\$ 400,000	\$ 400,000	71390
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000	71391
596 200-656	Ohio Career Information System	\$ 529,761	\$ 529,761	71392
TOTAL GSF	General Services Fund Group	\$ 32,859,010	\$ 32,990,184	71393 71394
	Federal Special Revenue Fund Group			71395
3AF 200-603	Schools Medicaid Administrative Claims	\$ 1,000,000	\$ 1,000,000	71396
3C5 200-661	Early Childhood Education	\$ 23,874,338	\$ 23,874,338	71397

3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966	71398
3D2	200-667	Honors Scholarship Program	\$	5,812,903	\$	5,833,965	71399
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	71400
3L6	200-617	Federal School Lunch	\$	204,256,132	\$	211,583,653	71401
3L7	200-618	Federal School Breakfast	\$	46,382,851	\$	48,405,608	71402
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843	71403
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	71404
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070	71405
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000	71406
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547	71407
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000	71408
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000	71409
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280	71410
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554	71411
3Y4	200-632	Reading First	\$	31,215,798	\$	31,215,798	71412
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000	71413
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000	71414
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000	71415
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799	71416
3Z3	200-645	Consolidated USDE Administration	\$	9,200,000	\$	9,200,000	71417
309	200-601	Educationally	\$	19,658,846	\$	19,658,846	71418

		Disadvantaged			
366	200-604	Adult Basic Education	\$ 18,500,000	\$ 18,500,000	71419
367	200-607	School Food Services	\$ 11,383,637	\$ 11,666,732	71420
368	200-614	Veterans' Training	\$ 672,961	\$ 691,130	71421
369	200-616	Career-Technical Education Federal Enhancement	\$ 6,500,000	\$ 6,500,000	71422
370	200-624	Education of Exceptional Children	\$ 2,386,610	\$ 2,386,610	71423
371	200-631	Immigrant Education Opportunities	\$ 400,000	\$ 400,000	71424
374	200-647	Troops to Teachers	\$ 400,000	\$ 400,000	71425
378	200-660	Math/Science Technology Investments	\$ 1,200,000	\$ 1,200,000	71426
TOTAL FED Federal Special					71427
Revenue Fund Group			\$ 1,680,363,977	\$ 1,805,353,440	71428
State Special Revenue Fund Group					71429
4R7	200-695	Indirect Operational Support	\$ 5,382,864	\$ 5,449,748	71430
4V7	200-633	Interagency Operational Support	\$ 500,000	\$ 500,000	71431
454	200-610	Guidance and Testing	\$ 400,000	\$ 400,000	71432
455	200-608	Commodity Foods	\$ 24,000,000	\$ 24,000,000	71433
5BB	200-696	State Action for Education Leadership	\$ 1,200,000	\$ 1,200,000	71434
5BJ	200-626	Half-Mill Maintenance Equalization	\$ 0	\$ 10,700,000	71435
5U2	200-685	National Education Statistics	\$ 300,000	\$ 300,000	71436
5W2	200-663	Early Learning Initiative	\$ 96,580,000	\$ 115,456,000	71437
598	200-659	Auxiliary Services Reimbursement	\$ 1,328,910	\$ 1,328,910	71438

620	200-615	Educational	\$	1,000,000	\$	1,000,000	71439
		Improvement Grants					
		TOTAL SSR State Special Revenue					71440
		Fund Group	\$	130,691,774	\$	160,334,658	71441
		Lottery Profits Education Fund Group					71442
017	200-612	Foundation Funding	\$	606,208,300	\$	606,296,800	71443
017	200-682	Lease Rental Payment	\$	31,691,700	\$	31,603,200	71444
		Reimbursement					
		TOTAL LPE Lottery Profits					71445
		Education Fund Group	\$	637,900,000	\$	637,900,000	71446
		Revenue Distribution Fund Group					71447
047	200-900	School District	\$	38,810,000	\$	291,010,000	71448
		Property Tax					
		Replacement-Business					
053	200-900	School District	\$	116,647,522	\$	101,647,522	71449
		Property Tax					
		Replacement-Utility					
		TOTAL RDF Revenue Distribution					71450
		Fund Group	\$	155,457,522	\$	392,657,522	71451
		TOTAL ALL BUDGET FUND GROUPS	\$10,119,320,385		\$10,600,545,703		71452

Section 206.09.03. PERSONAL SERVICES 71454

Of the foregoing appropriation item 200-100, Personal 71455
 Services, \$1,581,181 in each fiscal year shall be used by the 71456
 Department of Education to provide vocational administration 71457
 matching funds under 20 U.S.C. 2311. 71458

Of the foregoing appropriation item 200-100, Personal 71459
 Services, up to \$1,000,000 in fiscal year 2007 may be used by the 71460
 Department of Education to administer the Educational Choice 71461
 Scholarship Program established under section 3310.02 of the 71462
 Revised Code. 71463

Of the foregoing appropriation item 200-100, Personal Services, up to \$65,000 in each fiscal year shall be provided to Southern State Community College for the Pilot Post-Secondary Enrollment Options Program with Miami Trace High School.

MAINTENANCE AND EQUIPMENT 71468

Of the foregoing appropriation item 200-320, Maintenance and Equipment, up to \$25,000 may be expended in each fiscal year for State Board of Education out-of-state travel.

Of the foregoing appropriation item 200-320, Maintenance and Equipment, \$652,014 in each fiscal year shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

Section 206.09.06. EARLY CHILDHOOD EDUCATION 71476

The Department of Education shall distribute the foregoing appropriation item 200-408, Early Childhood Education, to pay the costs of comprehensive early childhood education programs. As used in this section, "provider" means a city, local, exempted village, or joint vocational school district, an educational service center, or any community-based entity licensed under sections 3301.52 to 3301.59 or Chapter 5104. of the Revised Code with experience educating children.

(A) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve children from families earning not more than 200 per cent of the federal poverty guidelines.

(B) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's

web site, regarding early childhood education programs operated 71494
under this section and the early learning program guidelines for 71495
school readiness. 71496

(C) For purposes of this section, "eligible child" means a 71497
child who is at least three years of age, is not of the age to be 71498
eligible for kindergarten, and whose family earns not more than 71499
200 per cent of the federal poverty guidelines. 71500

(D) After setting aside the amounts to make payments due from 71501
the previous fiscal year, in fiscal year 2006, the Department 71502
shall distribute funds first to recipients of funds for public 71503
preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 71504
125th General Assembly in the previous fiscal year and the balance 71505
to new providers of early childhood education programs under this 71506
section. After setting aside the amounts to make payments due from 71507
the previous fiscal year, in fiscal year 2007, the Department 71508
shall distribute funds first to providers of early childhood 71509
education programs under this section in the previous fiscal year 71510
and the balance to new providers. Awards under this section shall 71511
be distributed on a per-pupil basis, which the Department may 71512
adjust so that the per-pupil amount multiplied by the number of 71513
eligible children enrolled and receiving services, as defined by 71514
the Department, reported on the first day of December or the first 71515
business day following that date equals the amount allocated under 71516
division (A) of this section. The Department may increase the 71517
per-pupil amount by a reasonable percentage for inflation, to be 71518
determined by the Department. 71519

The Department may reallocate unobligated or unspent money to 71520
participating providers for purposes of program expansion, 71521
improvement, or special projects to promote quality and 71522
innovation. 71523

(E) Costs for developing and administering an early childhood 71524

education program may not exceed fifteen per cent of the total 71525
approved costs of the program. 71526

All providers shall maintain such fiscal control and 71527
accounting procedures as may be necessary to ensure the 71528
disbursement of, and accounting for, these funds. The control of 71529
funds provided in this program, and title to property obtained 71530
therefrom, shall be under the authority of the approved provider 71531
for purposes provided in the program unless, as described in 71532
division (I) of this section, the program waives its right for 71533
funding or a program's funding is eliminated or reduced due to its 71534
inability to meet financial or early learning program guidelines 71535
for school readiness. The approved provider shall administer and 71536
use such property and funds for the purposes specified. 71537

(F) The Department may examine a provider's financial and 71538
program records. If the financial practices of the program are not 71539
in accordance with standard accounting principles or do not meet 71540
financial standards outlined under division (E) of this section, 71541
or if the program fails to substantially meet the early learning 71542
program guidelines for school readiness or exhibits below average 71543
performance as measured against the guidelines, the early 71544
childhood education program shall propose and implement a 71545
corrective action plan that has been approved by the Department. 71546
The approved corrective action plan shall be signed by the chief 71547
executive officer and the executive of the official governing body 71548
of the provider. The corrective action plan shall include a 71549
schedule for monitoring by the Department. Such monitoring may 71550
include monthly reports, inspections, a timeline for correction of 71551
deficiencies, and technical assistance to be provided by the 71552
Department or obtained by the early childhood education program. 71553
The Department may withhold funding pending corrective action. If 71554
an early childhood education program fails to satisfactorily 71555
complete a corrective action plan, the Department may deny 71556

expansion funding to the program or withdraw all or part of the 71557
funding to the program and establish a new provider through a 71558
competitive bidding process established by the Department. 71559

(G) Each early childhood education program shall do all of 71560
the following: 71561

(1) Meet teacher qualification requirements prescribed by 71562
section 3301.311 of the Revised Code; 71563

(2) Align curriculum to the early learning program guidelines 71564
for school readiness; 71565

(3) Meet any assessment requirements prescribed by section 71566
3301.0715 of the Revised Code that are applicable to the program; 71567

(4) Require teachers, including teachers enrolled and working 71568
to obtain a degree pursuant to section 3301.311 of the Revised 71569
Code, to attend a minimum of twenty hours per year of professional 71570
development as prescribed by the Department regarding the 71571
implementation of content standards and assessments; 71572

(5) Document and report child progress in meeting the early 71573
learning program guidelines for school readiness. 71574

(H) Each provider shall develop a sliding fee scale based on 71575
family incomes and shall charge families who earn more than the 71576
federal poverty guidelines for the early childhood education 71577
program. 71578

(I) If an early childhood education program voluntarily 71579
waives its right for funding, or has its funding eliminated for 71580
not meeting financial standards or the early learning program 71581
guidelines for school readiness, the provider shall transfer 71582
control of title to property, equipment, and remaining supplies 71583
obtained through the program to providers designated by the 71584
Department and return any unexpended funds to the Department along 71585
with any reports prescribed by the Department. The funding made 71586

available from a program that waives its right for funding or has
its funding eliminated or reduced may be used by the Department
for new grant awards or expansion grants. The Department may award
new grants or expansion grants to eligible providers who apply.
The eligible providers who apply must do so in accordance with the
competitive bidding process established by the Department.

(J) As used in this section, "early learning program
guidelines for school readiness" means the guidelines established
by the Department pursuant to division (C)(3) of Section 206.09.54
of this act.

Section 206.09.09. EDUCATOR TRAINING

The foregoing appropriation item 200-410, Educator Training,
shall be used to fund professional development programs in Ohio.
The Department of Education shall, when possible, incorporate
cultural competency as a component of professional development and
actively promote the development of cultural competency in the
operation of its professional development programs. As used in
this section, "cultural competency" has the meaning specified by
the Educator Standards Board under section 3319.61 of the Revised
Code.

Of the foregoing appropriation item 200-410, Educator
Training, up to \$7,850,000 in fiscal year 2006 and up to
\$8,250,000 in fiscal year 2007 shall be used by the Department of
Education to provide grants to pay \$2,000 of the application fee
in order to assist teachers from public and chartered nonpublic
schools applying for the first time to the National Board for
Professional Teaching Standards for professional teaching
certificates or licenses that the board offers. This set aside
shall also be used to recognize and reward teachers who become
certified by the National Board for Professional Teaching
Standards under section 3319.55 of the Revised Code. Up to

\$300,000 in each fiscal year of this set aside may be used by the Department to pay for costs associated with activities to support candidates through the application and certification process.

These moneys shall be used to pay up to the first 400 applications in each fiscal year received by the Department.

Of the foregoing appropriation item 200-410, Educator Training, up to \$9,515,817 in each fiscal year shall be allocated for entry year programs. These funds shall be used to support mentoring services and performance assessments of beginning teachers in school districts and chartered nonpublic schools.

Of the foregoing appropriation item 200-410, Educator Training, up to \$200,000 in each fiscal year shall be used to provide technical assistance and grants for districts to develop local knowledge/skills-based compensation systems (Teacher Advancement Program). Each district receiving grants shall issue an annual report to the Department of Education detailing the use of the funds and the impact of the system developed by the district.

Of the foregoing appropriation item 200-410, Educator Training, up to \$350,000 in each fiscal year shall be used for training and professional development of school administrators, school treasurers, and school business officials.

Of the foregoing appropriation item 200-410, Educator Training, up to \$100,000 in fiscal year 2007 shall be used by the Department of Education to develop a supply and demand report that describes the availability of quality educators and critical educator shortage areas in Ohio.

Of the foregoing appropriation item 200-410, Educator Training, up to \$885,740 in each fiscal year shall be used for educator recruitment programs targeting shortage areas, including recruiting highly qualified minority candidates into teaching and

recruiting prospective mathematics and science teachers. The funds 71649
also may be used to provide an alternative route to licensure for 71650
principals and other administrators. 71651

Of the foregoing appropriation item 200-410, Educator 71652
Training, up to \$187,500 in each fiscal year shall be used by the 71653
Department of Education to identify hard-to-staff schools and to 71654
provide incentives for highly qualified teachers to teach in these 71655
schools. Stipends shall be provided to teachers with at least 71656
three years of experience who teach in the areas of special 71657
education or middle or high school mathematics or science. 71658

Of the foregoing appropriation item 200-410, Educator 71659
Training, up to \$63,000 in each fiscal year shall be used to 71660
support the Ohio University Leadership Program. 71661

Of the foregoing appropriation item 200-410, Educator 71662
Training, up to \$4,371,000 in each fiscal year shall be allocated 71663
by the Department of Education on a per pupil basis, to school 71664
districts in academic emergency or with a three-year average 71665
graduation rate of not more than seventy-five per cent. As used in 71666
this section, "three-year average" and "graduation rate" have the 71667
meanings specified in section 3302.01 of the Revised Code. These 71668
funds shall be used by the districts to provide an equivalent of 71669
five days of ongoing embedded professional development for 71670
classroom teachers who provide instruction in the subject areas of 71671
reading, writing, mathematics, science, or social studies to 71672
students enrolled in the ninth or tenth grade. This professional 71673
development shall focus on developing subject competency, 71674
developing cultural competency, developing skills for analyzing 71675
test data, and developing data-based intervention strategies to 71676
prepare students below grade level to pass the Ohio Graduation 71677
Test. Districts shall submit a research-based, professional 71678
development plan for five days of embedded professional 71679
development to the Department of Education prior to receiving 71680

funds. The plan shall detail how ninth and tenth grade teachers
will learn and implement classroom strategies for students to
reach state standards in mathematics, reading, writing, social
studies, and science.

Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT 71685

The foregoing appropriation item 200-420,
Computer/Application/Network Development, shall be used to support
the development and implementation of information technology
solutions designed to improve the performance and services of the
Department of Education. Funds may be used for personnel,
maintenance, and equipment costs related to the development and
implementation of these technical system projects. Implementation
of these systems shall allow the Department to provide greater
levels of assistance to school districts and to provide more
timely information to the public, including school districts,
administrators, and legislators.

ALTERNATIVE EDUCATION PROGRAMS 71697

There is hereby created the Alternative Education Advisory
Council, which shall consist of one representative from each of
the following agencies: the Ohio Department of Education; the
Department of Youth Services; the Ohio Department of Alcohol and
Drug Addiction Services; the Department of Mental Health; the
Office of the Governor or, at the Governor's discretion, the
Office of the Lieutenant Governor; the Office of the Attorney
General; and the Office of the Auditor of State.

Of the foregoing appropriation item 200-421, Alternative
Education Programs, up to \$6,227,310 in each fiscal year shall be
used for the renewal of successful implementation grants and for
competitive matching grants to the 21 urban school districts as
defined in division (O) of section 3317.02 of the Revised Code as

it existed prior to July 1, 1998, and up to \$6,408,074 in each 71711
fiscal year shall be used for the renewal of successful 71712
implementation grants and for competitive matching grants to rural 71713
and suburban school districts for alternative educational programs 71714
for existing and new at-risk and delinquent youth. Programs shall 71715
be focused on youth in one or more of the following categories: 71716
those who have been expelled or suspended, those who have dropped 71717
out of school or who are at risk of dropping out of school, those 71718
who are habitually truant or disruptive, or those on probation or 71719
on parole from a Department of Youth Services facility. Grants 71720
shall be awarded according to the criteria established by the 71721
Alternative Education Advisory Council in 1999. Grants shall be 71722
awarded only to programs in which the grant will not serve as the 71723
program's primary source of funding. These grants shall be 71724
administered by the Department of Education. 71725

The Department of Education may waive compliance with any 71726
minimum education standard established under section 3301.07 of 71727
the Revised Code for any alternative school that receives a grant 71728
under this section on the grounds that the waiver will enable the 71729
program to more effectively educate students enrolled in the 71730
alternative school. 71731

Of the foregoing appropriation item 200-421, Alternative 71732
Education Programs, up to \$422,281 in each fiscal year may be used 71733
for program administration, monitoring, technical assistance, 71734
support, research, and evaluation. Any unexpended balance may be 71735
used to provide additional matching grants to urban, suburban, or 71736
rural school districts as outlined above. 71737

Of the foregoing appropriation item 200-421, Alternative 71738
Education Programs, \$75,000 in each fiscal year shall be used to 71739
support the Toledo Tech Academy. 71740

SCHOOL MANAGEMENT ASSISTANCE 71741

Of the foregoing appropriation item 200-422, School Management Assistance, up to \$1,315,000 in each fiscal year shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used to conduct performance audits consistent with the recommendations of the Governor's Blue Ribbon Task Force on Financing Student Success, with priority given to districts in fiscal distress. Expenses include duties related to the completion of performance audits for school districts that the Superintendent of Public Instruction determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal watch and fiscal emergency provisions under Chapter 3316. of the Revised Code.

POLICY ANALYSIS

The foregoing appropriation item 200-424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers,

including the Office of Budget and Management and the Legislative Service Commission. 71774
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The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers. 71776
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TECH PREP CONSORTIA SUPPORT 71784

The foregoing appropriation item 200-425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia. 71785
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OHIO EDUCATIONAL COMPUTER NETWORK 71793

The foregoing appropriation item 200-426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan under section 3301.07 of the Revised Code. 71794
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Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$18,136,691 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to 71800
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the Internet. In each fiscal year the Department of Education shall use these funds to assist data acquisition sites or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$1,700,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$8,338,468 in each fiscal year shall be used, through a formula and guidelines devised by the department, to subsidize the activities of designated data acquisition sites, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This

technical assistance shall include, but not be restricted to, 71837
development and maintenance of adequate computer software systems 71838
to support network activities. In order to improve the efficiency 71839
of network activities, the Department and data acquisition sites 71840
may jointly purchase equipment, materials, and services from funds 71841
provided under this appropriation for use by the network and, when 71842
considered practical by the Department, may utilize the services 71843
of appropriate state purchasing agencies. 71844

ACADEMIC STANDARDS 71845

Of the foregoing appropriation item 200-427, Academic 71846
Standards, up to \$747,912 in each fiscal year shall be used to 71847
provide funds to school districts that have one or more teachers 71848
participating in the teachers-on-loan program. 71849

Of the foregoing appropriation item 200-427, Academic 71850
Standards, \$150,000 in each fiscal year shall be used by the 71851
Department in combination with funding earmarked for this purpose 71852
in the Board of Regents' budget under appropriation item 235-321, 71853
Operating Expenses. Such funding shall be used to support Ohio's 71854
Partnership for Continued Learning at the direction of the Office 71855
of the Governor. Ohio's Partnership for Continued Learning 71856
replaces and broadens the former Joint Council of the Department 71857
of Education and the Board of Regents. The Partnership shall 71858
advise and make recommendations to promote collaboration among 71859
relevant state entities in an effort to help local communities 71860
develop coherent and successful "P-16" learning systems. The 71861
Governor, or the Governor's designee, shall serve as the 71862
chairperson. 71863

Of the foregoing appropriation item 200-427, Academic 71864
Standards, \$500,000 in each fiscal year shall be used for Project 71865
Lead the Way leadership and management oversight and initial and 71866
continuing support of Project Lead the Way workforce development 71867

programs in participating school districts. Project Lead the Way 71868
is a program that supports students interested in pursuing 71869
engineering professions and stimulates growth of career pathways 71870
that meet business and industry workforce needs. 71871

Of the foregoing appropriation item 200-427, Academic 71872
Standards, up to \$2,600,000 in each fiscal year shall be used for 71873
intensive teacher professional development institutes that focus 71874
on classroom implementation of the mathematics standards. 71875

The remainder of appropriation item 200-427, Academic 71876
Standards, shall be used by the Department of Education to develop 71877
and communicate to school districts academic content standards and 71878
curriculum models. 71879

Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES 71880

Of the foregoing appropriation item 200-431, School 71881
Improvement Initiatives, up to \$14,972,949 in fiscal year 2006 and 71882
\$15,122,678 in fiscal year 2007 shall be used to provide technical 71883
assistance to school districts that are declared to be in a state 71884
of academic watch or academic emergency under section 3302.03 of 71885
the Revised Code, to provide support to districts in the 71886
development and implementation of their continuous improvement 71887
plans as required in section 3302.04 of the Revised Code, to 71888
support a statewide comprehensive system of field relations that 71889
support local educators' abilities to foster academic achievement 71890
in the students they serve, and to provide technical assistance 71891
and support in accordance with Title I of the "No Child Left 71892
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field 71893
relations system shall include training that assists educators, 71894
school leadership, and technical assistance providers in 71895
understanding and implementing standards-based education, data 71896
analysis, and development of assessment systems for quality 71897
instruction. 71898

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$315,000 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, \$1,574,535 in fiscal year 2006 and \$2,753,985 in fiscal year 2007 shall be used in conjunction with funding provided in the Board of Regents' budget under appropriation item 235-434, College Readiness and Access, to create early college high schools, which are small, autonomous schools that blend high school and college into a coherent educational program.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$3,000,000 in fiscal year 2006 and up to \$5,000,000 in fiscal year 2007 shall be used in partnership with nonprofit groups with expertise in converting existing large urban high schools into small, personalized high schools. Districts eligible for such funding include the Urban 21 high schools, as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998, with priority given to those without other sources of funding for this initiative.

READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,175,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education,

higher education institutions, literacy networks, and school
districts. 71930
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Of the foregoing appropriation item 200-433, Reading/Writing
Improvement-Professional Development, up to \$900,000 in each
fiscal year shall be used by the Department of Education to fund
the Reading Recovery Training Network, to cover the cost of
release time for the teacher trainers, and to provide grants to
districts to implement other reading improvement programs on a
pilot basis. Funds from this set-aside also may be used to conduct
evaluations of the impact and effectiveness of Reading Recovery
and other reading improvement programs. 71932
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Of the foregoing appropriation item 200-433, Reading/Writing
Improvement-Professional Development, up to \$250,000 in each
fiscal year shall be used for the Waterford Early Reading Program. 71941
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The remainder of appropriation item 200-433, Reading/Writing
Improvement-Professional Development, shall be used by the
Department of Education to provide administrative support of
literacy professional development programs. 71944
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STUDENT ASSESSMENT 71948

The foregoing appropriation item 200-437, Student Assessment,
shall be used to develop, field test, print, distribute, score,
report results, and support other associated costs for the tests
required under sections 3301.0710 and 3301.0711 of the Revised
Code and for similar purposes as required by section 3301.27 of
the Revised Code. 71949
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ACCOUNTABILITY/REPORT CARDS 71955

Of the foregoing appropriation item 200-439,
Accountability/Report Cards, up to \$200,100 in fiscal year 2006
and up to \$2,778,540 in fiscal year 2007 shall be used by the
Department of Education to incorporate a statewide pilot 71956
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value-added progress dimension into performance ratings for school districts and to train regional specialists. This funding shall be used in consultation with a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of the appropriation item 200-439, Accountability/Report Cards, shall be used for the development of an accountability system that includes the preparation and distribution of school report cards under section 3302.03 of the Revised Code.

CHILD CARE LICENSING

The foregoing appropriation item 200-442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

OHIOREADS VOLUNTEER SUPPORT

The foregoing appropriation item 200-445, OhioReads Volunteer Support, may be allocated by the Department of Education for volunteer coordinators in public school buildings, for background checks for volunteers, to evaluate programs, and to develop, implement, and support literacy improvement activities and interventions for students in grades kindergarten through twelve.

Section 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200-446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$1,295,857 in each fiscal year shall be distributed to designated data acquisition sites for costs relating to processing, storing, and transferring data for

the effective operation of the EMIS. These costs may include, but
are not limited to, personnel, hardware, software development,
communications connectivity, professional development, and support
services, and to provide services to participate in the State
Education Technology Plan pursuant to section 3301.07 of the
Revised Code.

Of the foregoing appropriation item 200-446, Education
Management Information System, up to \$8,055,189 in each fiscal
year shall be distributed on a per-pupil basis to school
districts, community schools established under Chapter 3314. of
the Revised Code, educational service centers, joint vocational
school districts, and any other education entity that reports data
through EMIS. From this funding, each school district or community
school established under Chapter 3314. of the Revised Code with
enrollment greater than 100 students and each vocational school
district shall receive a minimum of \$5,000 in each fiscal year.
Each school district or community school established under Chapter
3314. of the Revised Code with enrollment between one and one
hundred and each educational service center and each county board
of MR/DD that submits data through EMIS shall receive \$3,000 in
each fiscal year. This subsidy shall be used for costs relating to
reporting, processing, storing, transferring, and exchanging data
necessary to meet requirements of the Department of Education's
data system.

The remainder of appropriation item 200-446, Education
Management Information System, shall be used to develop and
support a common core of data definitions and standards as adopted
by the Education Data Advisory Council, including the ongoing
development and maintenance of the data dictionary and data
warehouse. In addition, such funds shall be used to support the
development and implementation of data standards and the design,
development, and implementation of a new data exchange system.

Any provider of software meeting the standards approved by 72022
the Education Data Advisory Council shall be designated as an 72023
approved vendor and may enter into contracts with local school 72024
districts, community schools, data acquisition centers, or other 72025
educational entities for the purpose of collecting and managing 72026
data required under Ohio's education management information system 72027
(EMIS) laws. On an annual basis, the Department of Education shall 72028
convene an advisory group of school districts, community schools, 72029
and other education-related entities to review the Education 72030
Management Information System data definitions and data format 72031
standards. The advisory group shall recommend changes and 72032
enhancements based upon surveys of its members, education agencies 72033
in other states, and current industry practices, to reflect best 72034
practices, align with federal initiatives, and meet the needs of 72035
school districts. 72036

School districts and community schools not implementing a 72037
common and uniform set of data definitions and data format 72038
standards for Education Management Information System purposes 72039
shall have all EMIS funding withheld until they are in compliance. 72040

GED TESTING 72041

The foregoing appropriation item 200-447, GED Testing, shall 72042
be used to provide General Educational Development (GED) testing 72043
at no cost to applicants, under rules adopted by the State Board 72044
of Education. The Department of Education shall reimburse school 72045
districts and community schools, created under Chapter 3314. of 72046
the Revised Code, for a portion of the costs incurred in providing 72047
summer instructional or intervention services to students who have 72048
not graduated because of their inability to pass one or more parts 72049
of the state's Ohio Graduation Test or ninth grade proficiency 72050
test. School districts shall also provide such services to 72051
students who are residents of the district under section 3313.64 72052
of the Revised Code, but who are enrolled in chartered, nonpublic 72053

schools. The services shall be provided in the public school, in 72054
nonpublic schools, in public centers, or in mobile units located 72055
on or off the nonpublic school premises. No school district shall 72056
provide summer instructional or intervention services to nonpublic 72057
school students as authorized by this section unless such services 72058
are available to students attending the public schools within the 72059
district. No school district shall provide services for use in 72060
religious courses, devotional exercises, religious training, or 72061
any other religious activity. Chartered, nonpublic schools shall 72062
pay for any unreimbursed costs incurred by school districts for 72063
providing summer instruction or intervention services to students 72064
enrolled in chartered, nonpublic schools. School districts may 72065
provide these services to students directly or contract with 72066
postsecondary or nonprofit community-based institutions in 72067
providing instruction. 72068

EDUCATOR PREPARATION 72069

Of the foregoing appropriation item 200-448, Educator 72070
Preparation, \$100,000 in each fiscal year shall be provided in 72071
conjunction with funding in the Board of Regents' budget under 72072
appropriation item 235-435, Teacher Improvement Initiatives, to 72073
the Teacher Quality Partnership project. The Teacher Quality 72074
Partnership is a research consortium of Ohio's fifty colleges and 72075
universities providing teacher preparation programs. Funds shall 72076
be used to support a comprehensive longitudinal study of the 72077
preparation, in-school support, and effectiveness of Ohio 72078
teachers. 72079

Of the foregoing appropriation item 200-448, Educator 72080
Preparation, up to \$1,551,000 in each fiscal year shall be used by 72081
the Department to support the Educator Standards Board under 72082
section 3319.61 of the Revised Code as it develops and recommends 72083
to the State Board of Education standards for educator training 72084
and standards for teacher and other school leadership positions. 72085

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP 72086

Funds appropriated for the purpose of providing start up 72087
grants to Title IV-A Head Start and Title IV-A Head Start Plus 72088
agencies in fiscal year 2004 and fiscal year 2005 for the 72089
provision of services to children eligible for Title IV-A services 72090
under the Title IV-A Head Start or Title IV-A Head Start Plus 72091
programs shall be reimbursed to the General Revenue Fund when the 72092
Title IV-A Head Start or Title IV-A Head Start Plus programs cease 72093
to exist in fiscal year 2006 or are no longer funded from Title 72094
IV-A. 72095

Within ninety days after the effective date of this section, 72096
the Title IV-A Head Start agencies, the Title IV-A Head Start Plus 72097
agencies, and the Department of Education shall determine the 72098
outstanding amount remaining to be repaid for the start up grants, 72099
and, within ten days thereafter, the Title IV-A Head Start 72100
agencies and the Title IV-A Head Start Plus agencies shall pay 72101
this amount to the Department of Education for reimbursement to 72102
the General Revenue Fund. The Department of Education shall refer 72103
any amounts remaining due and payable to the state after that date 72104
to the Attorney General for collection under section 131.02 of the 72105
Revised Code. 72106

COMMUNITY SCHOOLS 72107

Of the foregoing appropriation item 200-455, Community 72108
Schools, up to \$1,308,661 in each fiscal year may be used by the 72109
Department of Education for additional services and 72110
responsibilities under section 3314.11 of the Revised Code. 72111

Of the foregoing appropriation item 200-455, Community 72112
Schools, up to \$225,000 in each fiscal year may be used by the 72113
Department of Education for developing and conducting training 72114
sessions for sponsors and prospective sponsors of community 72115
schools as prescribed in division (A)(1) of section 3314.015 of 72116

the Revised Code. In developing the training sessions, the 72117
Department shall collect and disseminate examples of best 72118
practices used by sponsors of independent charter schools in Ohio 72119
and other states. 72120

The remaining appropriation may be used by the Department of 72121
Education to make grants of up to \$50,000 to each proposing group 72122
with a preliminary agreement obtained under division (C)(2) of 72123
section 3314.02 of the Revised Code in order to defray planning 72124
and initial start-up costs. In the first year of operation of a 72125
community school, the Department of Education may make a grant of 72126
not more than \$100,000 to the governing authority of the school to 72127
partially defray additional start-up costs. The amount of the 72128
grant shall be based on a thorough examination of the needs of the 72129
community school. The Department of Education shall not utilize 72130
moneys received under this section for any other purpose other 72131
than those specified under this section. 72132

A community school awarded start-up grants from appropriation 72133
item 200-613, Public Charter Schools (Fund 3T4), shall not be 72134
eligible for grants under this section. 72135

Section 206.09.21. PUPIL TRANSPORTATION 72136

Of the foregoing appropriation item 200-502, Pupil 72137
Transportation, up to \$822,400 in each fiscal year may be used by 72138
the Department of Education for training prospective and 72139
experienced school bus drivers in accordance with training 72140
programs prescribed by the Department. Up to \$58,115,428 in fiscal 72141
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by 72142
the Department of Education for special education transportation 72143
reimbursements to school districts and county MR/DD boards for 72144
transportation operating costs as provided in division (M) of 72145
section 3317.024 of the Revised Code. The remainder of 72146
appropriation item 200-502, Pupil Transportation, shall be used 72147

for the state reimbursement of public school districts' costs in 72148
transporting pupils to and from the school they attend in 72149
accordance with the district's policy, State Board of Education 72150
standards, and the Revised Code. 72151

Notwithstanding the distribution formula outlined in division 72152
(D) of section 3317.022 of the Revised Code, each school district 72153
shall receive an additional two per cent in state funding for 72154
transportation in fiscal year 2006 over what was received in 72155
fiscal year 2005, and the local share of transportation costs that 72156
is used in the calculation of the charge-off supplement and excess 72157
cost supplement for each school district in fiscal year 2006 shall 72158
be increased by two per cent from that used in calculations in 72159
fiscal year 2005. 72160

Notwithstanding the distribution formula outlined in division 72161
(D) of section 3317.022 of the Revised Code, each school district 72162
shall receive an additional two per cent in state funding for 72163
transportation in fiscal year 2007 over what was received in 72164
fiscal year 2006, and the local share of transportation costs that 72165
is used in the calculation of the charge-off supplement and excess 72166
cost supplement for each school district in fiscal year 2007 shall 72167
be increased by two per cent from that used in calculations in 72168
fiscal year 2006. 72169

The Department of Education shall recommend a new formula for 72170
allocating state funds for transportation costs. The Department 72171
shall submit the recommendation to the Director of Budget and 72172
Management, the Speaker of the House of Representatives, and the 72173
President of the Senate not later than July 1, 2006. 72174

School districts not receiving state funding for 72175
transportation in fiscal year 2005 under division (D) of section 72176
3317.022 of the Revised Code shall not receive state funding for 72177
transportation in fiscal year 2006 or fiscal year 2007. 72178

BUS PURCHASE ALLOWANCE 72179

The foregoing appropriation item 200-503, Bus Purchase 72180
Allowance, shall be distributed to school districts, educational 72181
service centers, and county MR/DD boards pursuant to rules adopted 72182
under section 3317.07 of the Revised Code. Up to 28 per cent of 72183
the amount appropriated may be used to reimburse school districts 72184
and educational service centers for the purchase of buses to 72185
transport handicapped and nonpublic school students and to county 72186
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 72187
for the Blind for the purchase of buses to transport handicapped 72188
students. 72189

SCHOOL LUNCH MATCH 72190

The foregoing appropriation item 200-505, School Lunch Match, 72191
shall be used to provide matching funds to obtain federal funds 72192
for the school lunch program. 72193

Section 206.09.24. ADULT LITERACY EDUCATION 72194

The foregoing appropriation item 200-509, Adult Literacy 72195
Education, shall be used to support adult basic and literacy 72196
education instructional programs and the State Literacy Resource 72197
Center Program. 72198

Of the foregoing appropriation item 200-509, Adult Literacy 72199
Education, up to \$488,037 in each fiscal year shall be used for 72200
the support and operation of the State Literacy Resource Center. 72201

Of the foregoing appropriation item 200-509, Adult Literacy 72202
Education, up to \$175,000 in each fiscal year shall be used for 72203
state reimbursement to school districts for adult high school 72204
continuing education programs under section 3313.531 of the 72205
Revised Code or for costs associated with awarding adult high 72206
school diplomas under section 3313.611 of the Revised Code. 72207

The remainder of the appropriation shall be used to continue 72208

to satisfy the state match and maintenance of effort requirements 72209
for the support and operation of the Department of 72210
Education-administered instructional grant program for adult basic 72211
and literacy education in accordance with the Department's state 72212
plan for adult basic and literacy education as approved by the 72213
State Board of Education and the Secretary of the United States 72214
Department of Education. 72215

AUXILIARY SERVICES 72216

The foregoing appropriation item 200-511, Auxiliary Services, 72217
shall be used by the Department of Education for the purpose of 72218
implementing section 3317.06 of the Revised Code. Of the 72219
appropriation, up to \$2,000,000 in each fiscal year may be used 72220
for payment of the Post-Secondary Enrollment Options Program for 72221
nonpublic students under section 3365.10 of the Revised Code. 72222

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 72223

The foregoing appropriation item 200-514, Postsecondary Adult 72224
Career-Technical Education, shall be used by the State Board of 72225
Education to provide postsecondary adult career-technical 72226
education under sections 3313.52 and 3313.53 of the Revised Code. 72227

Section 206.09.27. GIFTED PUPIL PROGRAM 72228

The foregoing appropriation item 200-521, Gifted Pupil 72229
Program, shall be used for gifted education units not to exceed 72230
1,110 in each fiscal year under division (P) of section 3317.024 72231
and division (F) of section 3317.05 of the Revised Code. 72232

Of the foregoing appropriation item 200-521, Gifted Pupil 72233
Program, up to \$4,700,000 in each fiscal year may be used as an 72234
additional supplement for identifying gifted students under 72235
Chapter 3324. of the Revised Code. 72236

Of the foregoing appropriation item 200-521, Gifted Pupil 72237
Program, the Department of Education may expend up to \$940,000 in 72238

each fiscal year for the Summer Honors Institute for gifted 72239
freshman and sophomore high school students. Up to \$65,800 in each 72240
fiscal year shall be used for the Ohio Summer School for the 72241
Gifted (Martin Essex Program). 72242

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 72243

The foregoing appropriation item 200-532, Nonpublic 72244
Administrative Cost Reimbursement, shall be used by the Department 72245
of Education for the purpose of implementing section 3317.063 of 72246
the Revised Code. 72247

Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS 72248

Of the foregoing appropriation item 200-540, Special 72249
Education Enhancements, up to \$46,357,775 in fiscal year 2006 and 72250
up to \$46,826,353 in fiscal year 2007 shall be used to fund 72251
special education and related services at county boards of mental 72252
retardation and developmental disabilities for eligible students 72253
under section 3317.20 of the Revised Code and at institutions for 72254
eligible students under section 3317.201 of the Revised Code. 72255

Of the foregoing appropriation item 200-540, Special 72256
Education Enhancements, up to \$2,906,875 in each fiscal year shall 72257
be used for home instruction for children with disabilities; up to 72258
\$1,462,500 in each fiscal year shall be used for parent mentoring 72259
programs; and up to \$2,408,396 in each fiscal year may be used for 72260
school psychology interns. 72261

Of the foregoing appropriation item 200-540, Special 72262
Education Enhancements, \$750,000 in each fiscal year shall be used 72263
for the Out of School Initiative of Sinclair Community College. 72264

Of the foregoing appropriation item 200-540, Special 72265
Education Enhancements, \$500,000 in each fiscal year shall be 72266
distributed to Putnam, Northwest Ohio, Erie-Huron-Ottawa, and Wood 72267
County educational service centers for continued implementation in 72268

collaboration with the Ohio Coalition for the Education of 72269
Children with Disabilities of the research-based reading mentoring 72270
programs for students with disabilities in preschool through 72271
fourth grade. The mentoring programs selected shall have promising 72272
educational practices for accelerating student achievement, be 72273
easily replicated, have strong evaluative components, and have 72274
goals aligned to the Ohio achievement and proficiency tests. The 72275
mentoring programs shall be administered by certified staff, and 72276
testing of participants shall be required prior to, during, and 72277
after participation in the programs. Ongoing and comparison data 72278
shall be collected for fiscal years 2006 and 2007 by the Putnam 72279
County Educational Service Center and reported to the Governor, 72280
Superintendent of Public Instruction, and the General Assembly. 72281

Of the foregoing appropriation item 200-540, Special 72282
Education Enhancements, \$315,000 in each fiscal year shall be used 72283
to implement the Collaborative Language and Literacy Instruction 72284
Project literacy reform programming, which provides professional 72285
development in language and literacy that supports student 72286
acquisition of language and literacy skills. The implementation of 72287
the Collaborative Language and Literacy Instruction Project shall 72288
demonstrate the improvement of language and literacy skills of 72289
at-risk learners under the instruction and training of the Ohio 72290
Education Development Center. Baseline data and comparison data 72291
for fiscal year 2006 and fiscal year 2007 shall be collected by 72292
the Ohio Education Development Center and reported to the 72293
Governor, the General Assembly, and the State Board of Education. 72294

Of the foregoing appropriation item 200-540, Special 72295
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 72296
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 72297
Department of Education to county boards of mental retardation and 72298
developmental disabilities, educational service centers, and 72299
school districts for preschool special education units and 72300

preschool supervisory units under section 3317.052 of the Revised Code. The Department may reimburse county boards of mental retardation and developmental disabilities, educational service centers, and school districts for related services as defined in rule 3301-51-11 of the Administrative Code, for preschool occupational and physical therapy services provided by a physical therapy assistant and certified occupational therapy assistant, and for an instructional assistant. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department of Education shall require school districts, educational service centers, and county MR/DD boards serving preschool children with disabilities to document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department.

Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,436,070 in each fiscal year shall be used to fund career-technical education units at institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,621,507 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs, including equipment, provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions.

Of the foregoing appropriation item 200-545, Career-Technical

Education Enhancements, \$943,873 in fiscal year 2006 shall be used 72331
to provide an amount to each eligible school district for the 72332
replacement or updating of equipment essential for the instruction 72333
of students in job skills taught as part of a career-technical 72334
program or programs approved for such instruction by the State 72335
Board of Education. School districts replacing or updating 72336
career-technical education equipment may purchase or lease such 72337
equipment. The Department of Education shall review and approve 72338
all equipment requests and may allot appropriated funds to 72339
eligible school districts on the basis of the number of full-time 72340
equivalent workforce development teachers in all eligible 72341
districts making application for funds. 72342

The State Board of Education may adopt standards of need for 72343
equipment allocation. Pursuant to the adoption of any such 72344
standards of need by the State Board of Education, appropriated 72345
funds may be allotted to eligible districts according to such 72346
standards. Equipment funds allotted under either process shall be 72347
provided to a school district at 30, 40, or 50 per cent of cost on 72348
the basis of a rating developed by the Department of Education 72349
using the state share percentage as provided in division (B)(2) of 72350
section 3317.022 of the Revised Code. 72351

Of the foregoing appropriation item 200-545, Career-Technical 72352
Education Enhancements, up to \$3,431,000 in each fiscal year shall 72353
be used by the Department of Education to support existing High 72354
Schools That Work (HSTW) sites, develop and support new sites, 72355
fund technical assistance, and support regional centers and middle 72356
school programs. The purpose of HSTW is to combine challenging 72357
academic courses and modern career-technical studies to raise the 72358
academic achievement of students. HSTW provides intensive 72359
technical assistance, focused staff development, targeted 72360
assessment services, and ongoing communications and networking 72361
opportunities. 72362

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$466,992 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, up to \$270,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the \$270,000 set aside.

Section 206.09.36. FOUNDATION FUNDING

The foregoing appropriation item 200-550, Foundation Funding, includes \$85,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. This amount represents the total state education aid offset due to the valuation change for school districts and joint vocational school districts from all relevant appropriation line item sources. Upon certification by the Department of Education, in consultation with the Department of Taxation, to the Director of Budget and Management of the actual state aid offset, the cash transfer from fund 053, appropriation item 200-900, School District Property Tax Replacement - Utility, shall be decreased or increased by the Director of Budget and Management to match the certification in accordance with section 5727.84 of the

Revised Code. 72394

Of the foregoing appropriation item 200-550, Foundation 72395
Funding, up to \$425,000 shall be expended in each fiscal year for 72396
court payments under section 2151.357 of the Revised Code; an 72397
amount shall be available in each fiscal year for the cost of 72398
reappraisal guarantee under section 3317.04 of the Revised Code; 72399
an amount shall be available in each fiscal year to fund up to 225 72400
full-time equivalent approved GRADS teacher grants under division 72401
(R) of section 3317.024 of the Revised Code; an amount shall be 72402
available in each fiscal year to make payments to school districts 72403
under division (A)(2) of section 3317.022 of the Revised Code; an 72404
amount shall be available in each fiscal year to make payments to 72405
school districts under division (F) of section 3317.022 of the 72406
Revised Code; an amount shall be available in each fiscal year to 72407
make payments to school districts under division (C) of section 72408
3317.0212 of the Revised Code; and up to \$30,000,000 in each 72409
fiscal year shall be reserved for payments under sections 72410
3317.026, 3317.027, and 3317.028 of the Revised Code except that 72411
the Controlling Board may increase the \$30,000,000 amount if 72412
presented with such a request from the Department of Education. Of 72413
the foregoing appropriation item 200-550, Foundation Funding, up 72414
to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal 72415
year 2007 shall be used to provide additional state aid to school 72416
districts for special education students under division (C)(3) of 72417
section 3317.022 of the Revised Code; up to \$2,000,000 in each 72418
fiscal year shall be reserved for Youth Services tuition payments 72419
under section 3317.024 of the Revised Code; and up to \$52,000,000 72420
in each fiscal year shall be reserved to fund the state 72421
reimbursement of educational service centers under section 3317.11 72422
of the Revised Code and the section of this act entitled 72423
"EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 72424
available for special education weighted funding under division 72425

(C)(1) of section 3317.022 and division (D)(1) of section 3317.16 72426
of the Revised Code. 72427

Of the foregoing appropriation item 200-550, Foundation 72428
Funding, an amount shall be available in each fiscal year to be 72429
used by the Department of Education for transitional aid for 72430
school districts and joint vocational school districts. Funds 72431
shall be distributed under the sections of this act entitled 72432
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 72433
DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 72434
DISTRICTS." 72435

Of the foregoing appropriation item 200-550, Foundation 72436
Funding, up to \$1,000,000 in each fiscal year shall be used by the 72437
Department of Education for a program to pay for educational 72438
services for youth who have been assigned by a juvenile court or 72439
other authorized agency to any of the facilities described in 72440
division (A) of the section of this act entitled "PRIVATE 72441
TREATMENT FACILITY PROJECT." 72442

Of the foregoing appropriation item 200-550, Foundation 72443
Funding, up to \$3,700,000 in each fiscal year shall be used for 72444
school breakfast programs. Of this amount, up to \$900,000 shall be 72445
used in each fiscal year by the Department of Education to 72446
contract with the Children's Hunger Alliance to expand access to 72447
child nutrition programs consistent with the organization's 72448
continued ability to meet specified performance measures as 72449
detailed in the contract. The remainder of the appropriation shall 72450
be used to partially reimburse school buildings within school 72451
districts that are required to have a school breakfast program 72452
under section 3313.813 of the Revised Code, at a rate decided by 72453
the Department. 72454

Of the foregoing appropriation item 200-550, Foundation 72455
Funding, up to \$7,300,000 in fiscal year 2006 and up to \$8,600,000 72456

in fiscal year 2007 shall be used to operate the school choice
program in the Cleveland Municipal School District under sections
3313.974 to 3313.979 of the Revised Code.

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Of the portion of the funds distributed to the Cleveland
Municipal School District under this section, up to \$11,901,887 in
each fiscal year shall be used to operate the school choice
program in the Cleveland Municipal School District under sections
3313.974 to 3313.979 of the Revised Code.

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The remaining portion of appropriation item 200-550,
Foundation Funding, shall be expended for the public schools of
city, local, exempted village, and joint vocational school
districts, including base cost funding, special education speech
service enhancement funding, career-technical education weight
funding, career-technical education associated service funding,
guarantee funding, teacher training and experience funding,
poverty-based assistance, parity aid, charge-off supplement, and
excess cost supplement under sections 3317.022, 3317.023,
3317.029, 3317.0212, 3317.0216, 3317.0217, and 3317.16 of the
Revised Code.

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Appropriation items 200-502, Pupil Transportation, 200-521,
Gifted Pupil Program, 200-540, Special Education Enhancements, and
200-550, Foundation Funding, other than specific set-asides, are
collectively used in each fiscal year to pay state formula aid
obligations for school districts and joint vocational school
districts under Chapter 3317. of the Revised Code. The first
priority of these appropriation items, with the exception of
specific set-asides, is to fund state formula aid obligations
under Chapter 3317. of the Revised Code. It may be necessary to
reallocate funds among these appropriation items or use excess
funds from other general revenue fund appropriation items in the
Department of Education's budget in each fiscal year, in order to
meet state formula aid obligations. If it is determined that it is

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necessary to transfer funds among these appropriation items or to 72489
transfer funds from other General Revenue Fund appropriations in 72490
the Department of Education's budget to meet state formula aid 72491
obligations, the Department of Education shall seek approval from 72492
the Controlling Board to transfer funds as needed. 72493

Section 206.09.37. DISTRICT SPENDING REQUIREMENTS 72494

The Department of Education shall review district spending 72495
requirements as specified in section 3317.029 of the Revised Code 72496
and shall submit a report recommending modifications by July 1, 72497
2006. Copies of the report shall be provided to the Director of 72498
Budget and Management, the Speaker of the House of 72499
Representatives, and the President of the Senate. The 72500
recommendations shall include decreasing degrees of flexibility of 72501
spending for districts not meeting adequate progress standards as 72502
defined by the Department of Education. Recommendations shall also 72503
specifically review the definition of class size reduction in 72504
division (F)(3) of section 3317.029 of the Revised Code. The 72505
reports submitted by school districts under the section of this 72506
act entitled "INTERVENTION FUNDING" shall be used to inform these 72507
recommendations. 72508

Section 206.09.38. This section applies to fiscal year 2006 72509
only. 72510

Notwithstanding the distribution formula outlined in section 72511
3317.029 of the Revised Code, as that section exists prior to July 72512
1, 2006, the Department of Education shall pay to each school 72513
district that received a Disadvantaged Pupil Impact Aid (DPIA) 72514
allocation in fiscal year 2005 an additional two per cent in DPIA 72515
funding in fiscal year 2006 over what was received in fiscal year 72516
2005, unless the district received in fiscal year 2003 DPIA 72517
funding from the DPIA guarantee provision pursuant to division (B) 72518

of section 3317.029 of the Revised Code, as that section exists 72519
prior to July 1, 2006. For such a district, its DPIA funding in 72520
fiscal year 2006 shall equal the amount of DPIA funding the 72521
district received in fiscal year 2003. 72522

School districts shall continue to comply with all 72523
expenditure guidelines and restrictions outlined in divisions (F), 72524
(G), (I), and (K) of section 3317.029 of the Revised Code, as that 72525
section exists prior to July 1, 2006, by assuming a two per cent 72526
increase in funds for each program outlined in divisions (C), (D), 72527
and (E) of section 3317.029 of the Revised Code, as that section 72528
exists prior to July 1, 2006, and by assuming a DPIA index 72529
equivalent to the index calculated in fiscal year 2003. 72530

The Department of Education shall pay Disadvantaged Pupil 72531
Impact Aid (DPIA) in fiscal year 2006 in accordance with section 72532
3317.029 of the Revised Code, as that section exists prior to July 72533
1, 2006, to each school district that did not receive any DPIA 72534
allocation in fiscal year 2005 because its DPIA index in that 72535
fiscal year was less than 0.35 and it did not qualify for a DPIA 72536
guarantee payment. However, the Department shall calculate each 72537
such district's DPIA index and DPIA student count in fiscal year 72538
2006 based solely on Ohio Works First data certified for the 72539
district by the Department of Job and Family Services. Each 72540
district receiving payment under this paragraph shall comply with 72541
all expenditure guidelines and restrictions of section 3317.029 of 72542
the Revised Code, as that section exists prior to July 1, 2006. 72543

Notwithstanding section 3314.08 of the Revised Code, the 72544
Department shall make per pupil DPIA payments to community schools 72545
in fiscal year 2006 in the same manner prescribed for fiscal year 72546
2005 by Section 16 of Am. Sub. S.B. 2 of the 125th General 72547
Assembly, assuming a two per cent increase from the fiscal year 72548
2005 per pupil amounts. However, the Department shall make no DPIA 72549
payment to any internet- or computer-based community school, as 72550

defined in section 3314.02 of the Revised Code. 72551

Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND 72552
EXEMPTED VILLAGE SCHOOL DISTRICTS 72553

(A) The Department of Education shall distribute funds within 72554
appropriation item 200-550, Foundation Funding, for transitional 72555
aid in each fiscal year to each qualifying city, local, and 72556
exempted village school district. 72557

In fiscal years 2006 and 2007, the Department shall pay 72558
transitional aid to each city, local, or exempted village school 72559
district that experiences any decrease in its SF-3 funding plus 72560
charge-off supplement for the current fiscal year from its SF-3 72561
funding plus charge-off supplement for the previous fiscal year. 72562
The amount of the transitional aid payment shall equal the 72563
difference between the district's SF-3 funding plus charge-off 72564
supplement for the current fiscal year and its SF-3 funding plus 72565
charge-off supplement for the previous fiscal year. 72566

(B)(1) Subject to divisions (B)(2) and (3) of this section, 72567
the "SF-3 funding plus charge-off supplement" for each city, 72568
local, and exempted village school district in fiscal years 2006 72569
and 2007 equals the sum of the following: 72570

(a) Base-cost funding under division (A) of section 3317.022 72571
of the Revised Code; 72572

(b) Special education and related services additional 72573
weighted funding under division (C)(1) of section 3317.022 of the 72574
Revised Code; 72575

(c) Speech services funding under division (C)(4) of section 72576
3317.022 of the Revised Code; 72577

(d) Vocational education additional weighted funding under 72578
division (E) of section 3317.022 of the Revised Code; 72579

(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	72580 72581
(f) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	72582 72583 72584
(g) Poverty-Based Assistance under section 3317.029 of the Revised Code;	72585 72586
(h) Gifted education units under section 3317.05 of the Revised Code;	72587 72588
(i) Transportation under the section of this act entitled "PUPIL TRANSPORTATION";	72589 72590
(j) The state aid guarantee under section 3317.0212 of the Revised Code;	72591 72592
(k) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	72593 72594
(l) Parity aid under section 3317.0217 of the Revised Code;	72595
(m) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	72596 72597
(n) The charge-off supplement under section 3317.0216 of the Revised Code.	72598 72599
(2) For purposes of calculating transitional aid in fiscal year 2006, a district's fiscal year 2005 SF-3 funding plus charge-off supplement is the sum of the amounts described in divisions (A) to (O) of Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, plus any transitional aid paid to the district under that section, that the district actually received in fiscal year 2005. For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 SF-3 funding plus charge-off supplement is the sum of the amounts described in divisions (B)(1)(a) to (n) of this section,	72600 72601 72602 72603 72604 72605 72606 72607 72608 72609

plus any transitional aid paid to the district under this section, 72610
that the district actually received in fiscal year 2006. 72611

(3) The SF-3 funding plus charge-off supplement in each 72612
fiscal year for each district is the sum of the amounts specified 72613
in divisions (B)(1)(a) to (n) and (B)(2) of this section less any 72614
general revenue fund spending reductions ordered by the Governor 72615
under section 126.05 of the Revised Code. 72616

(C)(1) When calculating the reappraisal guarantee under 72617
division (C) or (D) of section 3317.04 of the Revised Code in 72618
fiscal year 2006, the Department shall include in a school 72619
district's fiscal year 2005 payments any transitional aid paid to 72620
the district in fiscal year 2005 under Section 41.37 of Am. Sub. 72621
H.B. 95 of the 125th General Assembly, as amended. 72622

(2) When calculating the reappraisal guarantee under division 72623
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 72624
2007, the Department shall include in a school district's fiscal 72625
year 2006 payments any transitional aid paid to the district in 72626
fiscal year 2006 under this section. 72627

(3) When calculating the reappraisal guarantee under division 72628
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 72629
2008, the Department shall include in a school district's fiscal 72630
year 2007 payments any transitional aid paid to the district in 72631
fiscal year 2007 under this section. 72632

Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL 72633
SCHOOL DISTRICTS 72634

(A) The Department of Education shall distribute funds within 72635
appropriation item 200-550, Foundation Funding, for transitional 72636
aid in fiscal year 2007 to each joint vocational school district 72637
that experiences a decrease in its joint vocational funding for 72638
fiscal year 2007 exceeding 5% of its joint vocational funding for 72639

fiscal year 2006. The Department shall distribute to each such 72640
district transitional aid in an amount to reduce the decrease to 72641
5% of the district's joint vocational funding for fiscal year 72642
2006. 72643

The Department shall make no payments under this section in 72644
fiscal year 2006. 72645

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 72646
district's joint vocational funding equals the sum of the 72647
following: 72648

(a) Base-cost funding under division (B) of section 3317.16 72649
of the Revised Code; 72650

(b) Special education and related services additional 72651
weighted funding under division (D)(1) of section 3317.16 of the 72652
Revised Code; 72653

(c) Speech services funding under division (D)(2) of section 72654
3317.16 of the Revised Code; 72655

(d) Vocational education additional weighted funding under 72656
division (C) of section 3317.16 of the Revised Code; 72657

(e) GRADS funding under division (R) of section 3317.024 of 72658
the Revised Code; 72659

(f) The state aid guarantee under division (H) of section 72660
3317.16 of the Revised Code. 72661

(2) For purposes of calculating transitional aid in fiscal 72662
year 2007, a district's fiscal year 2006 joint vocational funding 72663
is the sum of the amounts described in divisions (B)(1)(a) to (f) 72664
of this section, plus any transitional aid paid to the district 72665
under this section, that the district actually received in fiscal 72666
year 2006. 72667

(3) The joint vocational funding in each fiscal year for each 72668
district is the sum of the amounts specified in divisions 72669

(B)(1)(a) to (f) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code. 72670
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EMERGENCY LOAN INTEREST SUBSIDY 72673

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent. 72674
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Section 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS 72682
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The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps. 72684
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SAFE AND SUPPORTIVE SCHOOLS 72692

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel. 72693
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The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance 72697
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school safety. The guidelines shall provide a list of 72699
research-based best practices and programs from which local 72700
grantees shall select based on local needs. These practices shall 72701
include, but not be limited to, school resource officers and safe 72702
and drug free school coordinators and social-emotional development 72703
programs. 72704

Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION 72705

The Superintendent of Public Instruction shall not request, 72706
and the Controlling Board shall not approve, the transfer of funds 72707
from appropriation item 200-901, Property Tax Allocation - 72708
Education, to any other appropriation item. 72709

The appropriation item 200-901, Property Tax Allocation - 72710
Education, is appropriated to pay for the state's costs incurred 72711
because of the homestead exemption and the property tax rollback. 72712
In cooperation with the Department of Taxation, the Department of 72713
Education shall distribute these funds directly to the appropriate 72714
school districts of the state, notwithstanding sections 321.24 and 72715
323.156 of the Revised Code, which provide for payment of the 72716
homestead exemption and property tax rollback by the Tax 72717
Commissioner to the appropriate county treasurer and the 72718
subsequent redistribution of these funds to the appropriate local 72719
taxing districts by the county auditor. 72720

Appropriation item 200-906, Tangible Tax Exemption - 72721
Education, is appropriated to pay for the state's costs incurred 72722
because of the tangible personal property tax exemption required 72723
by division (C)(3) of section 5709.01 of the Revised Code. In 72724
cooperation with the Department of Taxation, the Department of 72725
Education shall distribute to each county treasurer the total 72726
amount appearing in the notification from the county treasurer 72727
under division (G) of section 321.24 of the Revised Code, for all 72728

school districts located in the county, notwithstanding section 72729
321.24 of the Revised Code insofar as it provides for payment of 72730
the \$10,000 tangible personal property tax exemption by the Tax 72731
Commissioner to the appropriate county treasurer for all local 72732
taxing districts located in the county. Pursuant to division (G) 72733
of section 321.24 of the Revised Code, the county auditor shall 72734
distribute the amount paid by the Department of Education among 72735
the appropriate school districts. 72736

Upon receipt of these amounts, each school district shall 72737
distribute the amount among the proper funds as if it had been 72738
paid as real or tangible personal property taxes. Payments for the 72739
costs of administration shall continue to be paid to the county 72740
treasurer and county auditor as provided for in sections 319.54, 72741
321.26, and 323.156 of the Revised Code. 72742

Any sums, in addition to the amounts specifically 72743
appropriated in appropriation items 200-901, Property Tax 72744
Allocation - Education, for the homestead exemption and the 72745
property tax rollback payments, and 200-906, Tangible Tax 72746
Exemption - Education, for the \$10,000 tangible personal property 72747
tax exemption payments, which are determined to be necessary for 72748
these purposes, are hereby appropriated. 72749

Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 72750

The foregoing appropriation item 200-681, Teacher 72751
Certification and Licensure, shall be used by the Department of 72752
Education in each year of the biennium to administer and support 72753
teacher certification and licensure activities. 72754

SCHOOL DISTRICT SOLVENCY ASSISTANCE 72755

Of the foregoing appropriation item 200-687, School District 72756
Solvency Assistance, \$9,000,000 in each fiscal year shall be 72757
allocated to the School District Shared Resource Account and 72758

\$9,000,000 in each fiscal year shall be allocated to the
Catastrophic Expenditures Account. These funds shall be used to
provide assistance and grants to school districts to enable them
to remain solvent under section 3316.20 of the Revised Code.
Assistance and grants shall be subject to approval by the
Controlling Board. Any required reimbursements from school
districts for solvency assistance shall be made to the appropriate
account in the School District Solvency Assistance Fund (Fund
5H3).

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Notwithstanding any provision of law to the contrary, upon
the request of the Superintendent of Public Instruction, the
Director of Budget and Management may make transfers to the School
District Solvency Assistance Fund (Fund 5H3) from any Department
of Education-administered fund or the General Revenue Fund to
maintain sufficient cash balances in the School District Solvency
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any
funds transferred are hereby appropriated. The transferred funds
may be used by the Department of Education to provide assistance
and grants to school districts to enable them to remain solvent
and to pay unforeseeable expenses of a temporary or emergency
nature that the school district is unable to pay from existing
resources. The Director of Budget and Management shall notify the
members of the Controlling Board of any such transfers.

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READING FIRST

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The foregoing appropriation item 200-632, Reading First,
shall be used by school districts to administer federal diagnostic
tests as well as other functions permitted by federal statute.
Notwithstanding section 3301.079 of the Revised Code, federal
diagnostic tests may be recognized as meeting the state diagnostic
testing requirements outlined in section 3301.079 of the Revised
Code.

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HALF-MILL MAINTENANCE EQUALIZATION	72790
The foregoing appropriation item 200-626, Half-Mill	72791
Maintenance Equalization, shall be used in fiscal year 2007 to	72792
make payments pursuant to section 3318.111 of the Revised Code.	72793
Section 206.09.54. EARLY LEARNING INITIATIVE	72794
(A) As used in this section:	72795
(1) "Title IV-A services" means benefits and services that	72796
are allowable under Title IV-A of the "Social Security Act," as	72797
specified in 42 U.S.C. 604(a), except that they shall not be	72798
benefits and services included in the term "assistance" as defined	72799
in 45 C.F.R. 260.31(a) and shall be benefits and services that are	72800
excluded from the definition of the term "assistance" under 45	72801
C.F.R. 260.31(b).	72802
(2) "Title IV-A funds" means funds provided under the	72803
temporary assistance for needy families block grant established by	72804
Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42	72805
U.S.C. 601, as amended.	72806
(3) "Child care" has the same meaning as in section 5104.01	72807
of the Revised Code.	72808
(4) "Eligible child" means a child eligible for Title IV-A	72809
services whose family income does not exceed one hundred	72810
eighty-five per cent of the federal poverty line.	72811
(5) "Early learning program" means a program for eligible	72812
children that is funded with Title IV-A funds and provides Title	72813
IV-A services that are both of the following:	72814
(a) Early learning services, as defined by the Department of	72815
Education pursuant to division (C)(1) of this section;	72816
(b) Child care.	72817
(6) "Early learning provider" means an entity that is	72818

receiving Title IV-A funds to operate an early learning program. 72819

(7) "Early learning agency" means an early learning provider 72820
or an entity that has entered into an agreement with an early 72821
learning provider requiring the early learning provider to operate 72822
an early learning program on behalf of the entity. 72823

(8) "Federal poverty line" has the same meaning as in section 72824
5104.01 of the Revised Code. 72825

(B) The Early Learning Initiative is hereby established. The 72826
Initiative shall be administered by the Department of Education 72827
and the Department of Job and Family Services in accordance with 72828
sections 5101.80 and 5101.801 of the Revised Code. The Initiative 72829
shall provide early learning programs and child care to eligible 72830
children. 72831

(C) The Department of Education shall do all of the 72832
following: 72833

(1) Define the early learning services that will be provided 72834
to eligible children through the Early Learning Initiative; 72835

(2) In consultation with the Department of Job and Family 72836
Services, develop an application form and criteria for the 72837
selection of early learning agencies. The criteria shall require 72838
an early learning agency, or each early learning provider with 72839
which the agency has entered into an agreement for the operation 72840
of an early learning program on the agency's behalf, to be 72841
licensed or certified by the Department of Education under 72842
sections 3301.52 to 3301.59 of the Revised Code or by the 72843
Department of Job and Family Services under Chapter 5104. of the 72844
Revised Code. 72845

(3) Establish early learning program guidelines for school 72846
readiness to assess the operation of early learning programs. The 72847
standards shall incorporate academic performance data of 72848

participating children to evaluate their preparedness for 72849
kindergarten upon completion of an early learning program. 72850

(D) Any entity that seeks to be an early learning agency 72851
shall apply to the Department of Education by a deadline 72852
established by the Department. The Department of Education shall 72853
select entities that meet the criteria established under division 72854
(C)(2) of this section to be early learning agencies. Upon 72855
selection of an entity to be an early learning agency, the 72856
Department of Education shall designate the number of eligible 72857
children the agency will serve. The Department of Education shall 72858
notify the Office of Budget and Management and the Department of 72859
Job and Family Services of the number so designated. 72860

(E) The Department of Education and the Department of Job and 72861
Family Services shall enter into a contract with each early 72862
learning agency selected under division (D) of this section. The 72863
contract shall outline the terms and conditions applicable to the 72864
provision of Title IV-A services for eligible children and shall 72865
include at least the following: 72866

(1) The respective duties of the early learning agency, the 72867
Department of Education, and the Department of Job and Family 72868
Services; 72869

(2) Requirements applicable to the allowable use of and 72870
accountability for Title IV-A funds; 72871

(3) A requirement that the amount used by the early learning 72872
agency for development and administrative costs shall not exceed 72873
fifteen per cent of the total approved costs for the early 72874
learning program; 72875

(4) Reporting requirements; 72876

(5) The reimbursement methodology, including a requirement 72877
that reimbursement shall be based upon the weekly attendance rate 72878

of each eligible child;	72879
(6) Audit requirements;	72880
(7) Provisions for suspending, modifying, or terminating the contract;	72881 72882
(8) A requirement that a child enrolled in a Head Start Plus program during fiscal year 2005 be given higher priority if the child is an eligible child and enrolls in an early learning program.	72883 72884 72885 72886
The requirements of section 127.16 of the Revised Code do not apply to contracts entered into under this section.	72887 72888
(F) If an early learning agency, or an early learning provider operating an early learning program on the agency's behalf, substantially fails to meet the early learning program guidelines for school readiness or exhibits below average performance, as determined by the Department of Education, the agency shall develop and implement a corrective action plan. The Department of Education shall approve the corrective action plan prior to implementation.	72889 72890 72891 72892 72893 72894 72895 72896
(G) If an early learning agency fails to implement a corrective action plan under division (F) of this section, the Department of Education may direct the Department of Job and Family Services to withhold funding from the agency or either the Department of Education or the Department of Job and Family Services may suspend or terminate the contract with the agency.	72897 72898 72899 72900 72901 72902
(H) Of the foregoing appropriation item 200-663, Early Learning Initiative, up to \$2,200,000 in each fiscal year may be used by the Department of Education to perform administrative functions for the Early Learning Initiative. The Director of Budget and Management may transfer appropriation, as needed, from the Department of Education, appropriation item 200-663, Early	72903 72904 72905 72906 72907 72908

Learning Initiative in Fund 5W2, to the Department of Job and 72909
Family Services, appropriation item 600-689, TANF Block Grant in 72910
Fund 3V6, for the successful operation of the Early Learning 72911
Initiative. This transfer shall take place not less than fifteen 72912
days after the Department of Education has provided the Office of 72913
Budget and Management and the Department of Job and Family 72914
Services its determination as to the number of children to be 72915
served by each early learning agency under division (D) of this 72916
section. The appropriation transferred is hereby authorized. 72917

Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT 72918

Notwithstanding section 3317.064 of the Revised Code, if the 72919
unobligated cash balance is sufficient, the Treasurer of State 72920
shall transfer \$1,500,000 in fiscal year 2006 within thirty days 72921
after the effective date of this section, and \$1,500,000 in fiscal 72922
year 2007 by August 1, 2006, from the Auxiliary Services Personnel 72923
Unemployment Compensation Fund to the Department of Education's 72924
Auxiliary Services Reimbursement Fund (Fund 598). 72925

Section 206.09.57. LOTTERY PROFITS EDUCATION FUND 72926

Appropriation item 200-612, Foundation Funding (Fund 017), 72927
shall be used in conjunction with appropriation item 200-550, 72928
Foundation Funding (GRF), to provide payments to school districts 72929
under Chapter 3317. of the Revised Code. 72930

The Department of Education, with the approval of the 72931
Director of Budget and Management, shall determine the monthly 72932
distribution schedules of appropriation item 200-550, Foundation 72933
Funding (GRF), and appropriation item 200-612, Foundation Funding 72934
(Fund 017). If adjustments to the monthly distribution schedule 72935
are necessary, the Department of Education shall make such 72936
adjustments with the approval of the Director of Budget and 72937
Management. 72938

The Director of Budget and Management shall transfer via 72939
intrastate transfer voucher the amount appropriated under the 72940
Lottery Profits Education Fund for appropriation item 200-682, 72941
Lease Rental Payment Reimbursement, to the General Revenue Fund on 72942
a schedule determined by the director. These funds shall support 72943
the appropriation item 230-428, Lease Rental Payments (GRF), of 72944
the School Facilities Commission. 72945

Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND 72946

(A) There is hereby created the Lottery Profits Education 72947
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 72948
of the Lottery Profits Education Reserve Fund shall be credited to 72949
the fund. The Superintendent of Public Instruction may certify 72950
cash balances exceeding \$75,000,000 in the Lottery Profits 72951
Education Reserve Fund (Fund 018) to the Director of Budget and 72952
Management in June of any given fiscal year. Prior to making the 72953
certification, the Superintendent of Public Instruction shall 72954
determine whether the funds above the \$75,000,000 threshold are 72955
needed to help pay for foundation program obligations for that 72956
fiscal year under Chapter 3317. of the Revised Code. If those 72957
funds are needed for the foundation program, the Superintendent of 72958
Public Instruction shall notify and consult with the Director of 72959
Budget and Management to determine the amount that may be 72960
transferred to the Public School Building Fund (Fund 021). Upon 72961
this determination, the Director of Budget and Management shall 72962
transfer the amount from the Lottery Profits Education Reserve 72963
Fund (Fund 018) to the Public School Building Fund (Fund 021). The 72964
amount transferred is hereby appropriated to appropriation item 72965
CAP-622, Public School Buildings. 72966

For fiscal years 2006 and 2007, notwithstanding any 72967
provisions of law to the contrary, amounts necessary to make loans 72968
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 72969

Revised Code are hereby appropriated to the Lottery Profits 72970
Education Reserve Fund (Fund 018). Loan repayments from loans made 72971
in previous years shall be deposited to the fund. 72972

(B) On July 15, 2005, or as soon as possible thereafter, the 72973
Director of the Ohio Lottery Commission shall certify to the 72974
Director of Budget and Management the amount by which lottery 72975
profit transfers received by the Lottery Profits Education Fund 72976
(Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director 72977
of Budget and Management shall transfer the amount so certified, 72978
plus the cash balance in Fund 017, to the Lottery Profits 72979
Education Reserve Fund (Fund 018). 72980

(C) On July 15, 2006, or as soon as possible thereafter, the 72981
Director of the Ohio Lottery Commission shall certify to the 72982
Director of Budget and Management the amount by which lottery 72983
profit transfers received by the Lottery Profits Education Fund 72984
(Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director 72985
of Budget and Management shall transfer the amount so certified, 72986
plus the cash balance in Fund 017, to the Lottery profits 72987
Education Reserve Fund (Fund 018). 72988

(D) Any amounts transferred under division (B) or (C) of this 72989
section may be made available by the Controlling Board in fiscal 72990
years 2006 or 2007, at the request of the Superintendent of Public 72991
Instruction, to provide assistance and grants to school districts 72992
to enable them to remain solvent and to pay unforeseeable expenses 72993
of a temporary or emergency nature that they are unable to pay 72994
from existing resources under section 3316.20 of the Revised Code, 72995
and to provide payments to school districts under Chapter 3317. of 72996
the Revised Code. 72997

Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 72998
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047) 72999

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall transfer \$10,010,000 in fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the General Revenue Fund to appropriation item 200-900, School District Property Tax Replacement - Business (Fund 047) in the Department of Education. The funds shall be used to reimburse school districts and joint vocational districts under section 5751.21 of the Revised Code.

Section 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS

The foregoing appropriation item, 200-900, School District Property Tax Replacement - Business, in Fund 047, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5751.21 of the Revised Code.

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY

The foregoing appropriation item 200-900, School District Property Tax Replacement-Utility, in Fund 053, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code.

***Section 206.09.66. DISTRIBUTION FORMULAS**

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula

factors;	73029
(B) Discretionary changes in formulas for distributing federal appropriations;	73030 73031
(C) Federally mandated changes in formulas for distributing federal appropriations.	73032 73033
Any such changes shall be reported two weeks prior to the effective date of the change.	73034 73035
Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING	73036
(A) As used in this section:	73037
(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.	73038 73039
(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code.	73040 73041
(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local school district to a city school district.	73042 73043 73044 73045 73046 73047 73048 73049 73050 73051
(C) Notwithstanding any provision of the Revised Code to the contrary, an educational service center that sponsors a community school under Chapter 3314. of the Revised Code in either fiscal year may include the students of that community school in its service center ADM for purposes of state funding under division (F) of section 3317.11 of the Revised Code, unless the community	73052 73053 73054 73055 73056 73057

school is an Internet- or computer-based community school. A 73058
service center shall include the community school students in its 73059
service center ADM only to the extent that the students are not 73060
already so included, and only in accordance with guidelines issued 73061
by the Department of Education. If the students of a community 73062
school sponsored by an educational service center are included in 73063
the service center ADM of another educational service center, 73064
those students shall be removed from the service center ADM of the 73065
other educational service center and added to the service center 73066
ADM of the community school's sponsoring service center. The 73067
General Assembly authorizes this procedure as an incentive for 73068
educational service centers to take over sponsorship of community 73069
schools from the State Board of Education as the State Board's 73070
sponsorship is phased out in accordance with Sub. H.B. 364 of the 73071
124th General Assembly. No student of an Internet- or 73072
computer-based community school shall be counted in the service 73073
center ADM of any educational service center. The Department shall 73074
pay educational service centers under division (F) of section 73075
3317.11 of the Revised Code for community school students included 73076
in their service center ADMs under this division only if 73077
sufficient funds earmarked within appropriation item 200-550, 73078
Foundation Funding, for payments under that division remain after 73079
first paying for students attributable to their local and client 73080
school districts, in accordance with divisions (B) and (D) of this 73081
section. 73082

(D) If insufficient funds are earmarked within appropriation 73083
item 200-550, Foundation Funding, for payments under division (F) 73084
of section 3317.11 of the Revised Code and division (C) of this 73085
section in fiscal year 2006 or fiscal year 2007, the Department 73086
shall prioritize the distribution of the earmarked funds as 73087
follows: 73088

(1) The Department shall first distribute to each educational 73089

service center the per-student amount specified in division (F) of 73090
section 3317.11 of the Revised Code for each student in its 73091
service center ADM attributable to the local school districts 73092
within the service center's territory. 73093

(2) The Department shall distribute the remaining funds in 73094
each fiscal year to each educational service center for the 73095
students in its service center ADM attributable to each city and 73096
exempted village school district that had entered into an 73097
agreement with an educational service center for that fiscal year 73098
under section 3313.843 of the Revised Code by January 1, 1997, up 73099
to the per-student amount specified in division (F) of section 73100
3317.11 of the Revised Code. If insufficient funds remain to pay 73101
each service center the full amount specified in division (F) of 73102
that section for each such student, the Department shall 73103
distribute the remaining funds to each service center 73104
proportionally, on a per-student basis for each such student, 73105
unless that proportional per-student amount exceeds the amount 73106
specified in division (F)(1) of that section. In that case, the 73107
Department shall distribute the per-student amount specified in 73108
division (F)(1) of that section to each service center for each 73109
such student and shall distribute the remainder proportionally, on 73110
a per-student basis for each such student, to the multi-county 73111
service centers described in division (F)(2) of that section. 73112

(3) If the Department has paid each service center under 73113
divisions (D)(1) and (2) of this section, the full amount 73114
specified in division (F) of section 3317.11 of the Revised Code 73115
for each student attributable to its local school districts and 73116
its client school districts described in division (D)(2) of this 73117
section the Department shall distribute any remaining funds 73118
proportionally, on a per-student basis, to each service center 73119
that sponsors a community school, other than an Internet- or 73120
computer-based community school, for the students included in the 73121

service center ADM under division (C) of this section. These 73122
payments shall not exceed per student the amount specified in 73123
division (F) of section 3317.11 of the Revised Code. 73124

***Section 206.09.72.** For the school year commencing July 1, 73125
2005, or the school year commencing July 1, 2006, or both, the 73126
Superintendent of Public Instruction may waive for the board of 73127
education of any school district the ratio of teachers to pupils 73128
in kindergarten through fourth grade required under paragraph 73129
(A)(3) of rule 3301-35-05 of the Administrative Code if the 73130
following conditions apply: 73131

(A) The board of education requests the waiver. 73132

(B) After the Department of Education conducts an on-site 73133
evaluation of the district related to meeting the required ratio, 73134
the board of education demonstrates to the satisfaction of the 73135
Superintendent of Public Instruction that providing the facilities 73136
necessary to meet the required ratio during the district's regular 73137
school hours with pupils in attendance would impose an extreme 73138
hardship on the district. 73139

(C) The board of education provides assurances that are 73140
satisfactory to the Superintendent of Public Instruction that the 73141
board will act in good faith to meet the required ratio as soon as 73142
possible. 73143

Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT 73144

(A) As used in this section: 73145

(1) The following are "participating residential treatment 73146
centers": 73147

(a) Private residential treatment facilities that have 73148
entered into a contract with the Department of Youth Services to 73149
provide services to children placed at the facility by the 73150

Department and which, in fiscal year 2006 or fiscal year 2007 or 73151
both, the Department pays through appropriation item 470-401, Care 73152
and Custody; 73153

(b) Abraxas, in Shelby; 73154

(c) Paint Creek, in Bainbridge; 73155

(d) Act One, in Akron; 73156

(e) Friars Club, in Cincinnati. 73157

(2) "Education program" means an elementary or secondary 73158
education program or a special education program and related 73159
services. 73160

(3) "Served child" means any child receiving an education 73161
program pursuant to division (B) of this section. 73162

(4) "School district responsible for tuition" means a city, 73163
exempted village, or local school district that, if tuition 73164
payment for a child by a school district is required under law 73165
that existed in fiscal year 1998, is the school district required 73166
to pay that tuition. 73167

(5) "Residential child" means a child who resides in a 73168
participating residential treatment center and who is receiving an 73169
educational program under division (B) of this section. 73170

(B) A youth who is a resident of the state and has been 73171
assigned by a juvenile court or other authorized agency to a 73172
residential treatment facility specified in division (A) of this 73173
section shall be enrolled in an approved educational program 73174
located in or near the facility. Approval of the educational 73175
program shall be contingent upon compliance with the criteria 73176
established for such programs by the Department of Education. The 73177
educational program shall be provided by a school district or 73178
educational service center, or by the residential facility itself. 73179
Maximum flexibility shall be given to the residential treatment 73180

facility to determine the provider. In the event that a voluntary 73181
agreement cannot be reached and the residential facility does not 73182
choose to provide the educational program, the educational service 73183
center in the county in which the facility is located shall 73184
provide the educational program at the treatment center to 73185
children under twenty-two years of age residing in the treatment 73186
center. 73187

(C) Any school district responsible for tuition for a 73188
residential child shall, notwithstanding any conflicting provision 73189
of the Revised Code regarding tuition payment, pay tuition for the 73190
child for fiscal year 2006 and fiscal year 2007 to the education 73191
program provider and in the amount specified in this division. If 73192
there is no school district responsible for tuition for a 73193
residential child and if the participating residential treatment 73194
center to which the child is assigned is located in the city, 73195
exempted village, or local school district that, if the child were 73196
not a resident of that treatment center, would be the school 73197
district where the child is entitled to attend school under 73198
sections 3313.64 and 3313.65 of the Revised Code, that school 73199
district, notwithstanding any conflicting provision of the Revised 73200
Code, shall pay tuition for the child for fiscal year 2006 and 73201
fiscal year 2007 under this division unless that school district 73202
is providing the educational program to the child under division 73203
(B) of this section. 73204

A tuition payment under this division shall be made to the 73205
school district, educational service center, or residential 73206
treatment facility providing the educational program to the child. 73207

The amount of tuition paid shall be: 73208

(1) The amount of tuition determined for the district under 73209
division (A) of section 3317.08 of the Revised Code; 73210

(2) In addition, for any student receiving special education 73211

pursuant to an individualized education program as defined in 73212
section 3323.01 of the Revised Code, a payment for excess costs. 73213
This payment shall equal the actual cost to the school district, 73214
educational service center, or residential treatment facility of 73215
providing special education and related services to the student 73216
pursuant to the student's individualized education program, minus 73217
the tuition paid for the child under division (C)(1) of this 73218
section. 73219

A school district paying tuition under this division shall 73220
not include the child for whom tuition is paid in the district's 73221
average daily membership certified under division (A) of section 73222
3317.03 of the Revised Code. 73223

(D) In each of fiscal years 2006 and 2007, the Department of 73224
Education shall reimburse, from appropriations made for the 73225
purpose, a school district, educational service center, or 73226
residential treatment facility, whichever is providing the 73227
service, that has demonstrated that it is in compliance with the 73228
funding criteria for each served child for whom a school district 73229
must pay tuition under division (C) of this section. The amount of 73230
the reimbursement shall be the formula amount specified in section 73231
3317.022 of the Revised Code, except that the department shall 73232
proportionately reduce this reimbursement if sufficient funds are 73233
not available to pay this amount to all qualified providers. 73234

(E) Funds provided to a school district, educational service 73235
center, or residential treatment facility under this section shall 73236
be used to supplement, not supplant, funds from other public 73237
sources for which the school district, service center, or 73238
residential treatment facility is entitled or eligible. 73239

(F) The Department of Education shall track the utilization 73240
of funds provided to school districts, educational service 73241
centers, and residential treatment facilities under this section 73242

and monitor the effect of the funding on the educational programs 73243
they provide in participating residential treatment facilities. 73244
The department shall monitor the programs for educational 73245
accountability. 73246

Section 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 73247
ASSESSMENT OF EDUCATION PROGRESS 73248

The General Assembly intends for the Superintendent of Public 73249
Instruction to provide for school district participation in the 73250
administration of the National Assessment of Education Progress in 73251
accordance with section 3301.27 of the Revised Code. Each school 73252
and school district selected for participation by the 73253
Superintendent of Public Instruction shall participate. 73254

Section 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION 73255
TRANSFERS FOR STUDENT ASSESSMENT 73256

In fiscal year 2006 and fiscal year 2007, if the 73257
Superintendent of Public Instruction determines that additional 73258
funds are needed to fully fund the requirements of Am. Sub. H.B. 3 73259
of the 125th General Assembly for assessments of student 73260
performance, the Superintendent of Public Instruction may 73261
recommend the reallocation of unspent and unencumbered 73262
appropriations within the Department of Education to the General 73263
Revenue Fund appropriation item 200-437, Student Assessment, to 73264
the Director of Budget and Management. If the Director of Budget 73265
and Management determines that such a reallocation is required, 73266
the Director of Budget and Management may transfer unspent and 73267
unencumbered funds within the Department of Education as necessary 73268
to appropriation item 200-437, Student Assessment. 73269

Section 206.09.84. (A) As used in this section: 73270

(1) "Entitled to attend school" means entitled to attend 73271

school in a school district under section 3313.64 and 3313.65 of
the Revised Code. 73272
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(2) "Formula ADM" and "category six special education ADM"
have the same meanings as in section 3317.02 of the Revised Code. 73274
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(3) "Individualized education program" has the same meaning
as in section 3323.01 of the Revised Code. 73276
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(4) "Parent" has the same meaning as in section 3313.64 of
the Revised Code. 73278
73279

(5) "Qualified special education child" is a child for whom
all of the following conditions apply: 73280
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(a) The school district in which the child is entitled to
attend school has identified the child as autistic. 73282
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(b) The school district in which the child is entitled to
attend school has developed an individualized education program
under Chapter 3323. of the Revised Code for the child. 73284
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(c) The child either: 73287

(i) Was enrolled in the school district in which the child is
entitled to attend school in any grade from preschool through
twelve in the school year prior to the year in which a scholarship
under this section is first sought for the child; or 73288
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(ii) Is eligible to enter school in any grade preschool
through twelve in the school district in which the child is
entitled to attend school in the school year in which a
scholarship under this section is first sought for the child. 73292
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(6) "Registered private provider" means a nonpublic school or
other nonpublic entity that has been approved by the Department of
Education to participate in the program established under this
section. 73296
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(B) There is hereby established the Pilot Project Special 73300

Education Scholarship Program. Under the program, in fiscal years 2006 and 2007, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school, by another public entity, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in

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any rule adopted by the State Board of Education shall prohibit a 73334
parent whose child attends a public special education program 73335
under a contract, compact, or other bilateral agreement, or a 73336
parent whose child attends a community school, from applying for 73337
and accepting a scholarship under this section so that the parent 73338
may withdraw the child from that program or community school and 73339
use the scholarship for the child to attend a special education 73340
program for which the parent is required to pay for services for 73341
the child. A child attending a special education program with a 73342
scholarship under this section shall continue to be entitled to 73343
transportation to and from that program in the manner prescribed 73344
by law. 73345

(C)(1) Notwithstanding anything to the contrary in the 73346
Revised Code, a child for whom a scholarship is awarded under this 73347
section shall be counted in the formula ADM and the category six 73348
special education ADM of the district in which the child is 73349
entitled to attend school and not in the formula ADM and the 73350
category six special education ADM of any other school district. 73351

(2) In each fiscal year, the Department shall deduct from the 73352
amounts paid to each school district under Chapter 3317. of the 73353
Revised Code, and, if necessary, sections 321.24 and 323.156 of 73354
the Revised Code, the aggregate amount of scholarships awarded 73355
under this section for qualified special education children 73356
included in the formula ADM and category six special education ADM 73357
of that school district as provided in division (C)(1) of this 73358
section. The scholarships deducted shall be considered as an 73359
approved special education and related services expense for the 73360
purpose of the school district's compliance with division (C)(5) 73361
of section 3317.022 of the Revised Code. 73362

(3) From time to time, the Department shall make a payment to 73363
the parent of each qualified special education child for whom a 73364
scholarship has been awarded under this section. The scholarship 73365

amount shall be proportionately reduced in the case of any such 73366
child who is not enrolled in the special education program for 73367
which a scholarship was awarded under this section for the entire 73368
school year. The Department shall make no payments to the parent 73369
of a child while any administrative or judicial mediation or 73370
proceedings with respect to the content of the child's 73371
individualized education program are pending. 73372

(D) A scholarship shall not be paid to a parent for payment 73373
of tuition owed to a nonpublic entity unless that entity is a 73374
registered private provider. The Department shall approve entities 73375
that meet the standards established by rule of the State Board for 73376
the program established under this section. 73377

(E) The State Board shall adopt rules under Chapter 119. of 73378
the Revised Code prescribing procedures necessary to implement 73379
this section, including, but not limited to, procedures and 73380
deadlines for parents to apply for scholarships, standards for 73381
registered private providers, and procedures for approval of 73382
entities as registered private providers. The Board shall adopt 73383
the rules so that the program established under this section is 73384
operational by January 1, 2004. 73385

Section 206.09.87. (A) In the 2005-2006 and 2006-2007 school 73386
years, within three months after a student identified with 73387
disabilities begins receiving services for the first time under an 73388
individualized education program, as defined in section 3323.01 of 73389
the Revised Code, the school district in which that student is 73390
enrolled shall require the student to undergo a comprehensive eye 73391
examination performed either by an optometrist licensed under 73392
Chapter 4725. of the Revised Code or by a physician authorized 73393
under Chapter 4731. of the Revised Code to practice medicine and 73394
surgery or osteopathic medicine and surgery who is comprehensively 73395
trained and educated in the treatment of the human eye, eye 73396

disease, or comprehensive vision services, unless the student 73397
underwent such an examination within the nine-month period 73398
immediately prior to being identified with disabilities. 73399

However, no student who has not undergone the eye examination 73400
required under this section shall be prohibited from initiating, 73401
receiving, or continuing to receive services prescribed in the 73402
student's individualized education program. 73403

(B) The superintendent of each school district or the 73404
superintendent's designee may determine fulfillment of the 73405
requirement prescribed in division (A) of this section based on 73406
any special circumstances of the student, the student's parent, 73407
guardian, or family that may prevent the student from undergoing 73408
the eye examination prior to beginning special education services. 73409

(C) Except for a student who may be entitled to a 73410
comprehensive eye examination in the identification of the 73411
student's disabilities, in the development of the student's 73412
individualized education program, or as a related service under 73413
the student's individualized education program, neither the state 73414
nor any school district shall be responsible for paying for the 73415
eye examination required by this section. 73416

Section 206.09.90. INTERVENTION FUNDING 73417

State funding totaling \$153,489,868 in fiscal year 2006 and 73418
\$195,096,413 in fiscal year 2007 is provided to school districts 73419
for intervention or intervention related activities. School 73420
districts have flexibility in the use of this funding by which 73421
success is achieved for their students under section 3317.029 of 73422
the Revised Code. 73423

No later than December 31, 2006, each school district shall 73424
report intervention costs by type of intervention provided in a 73425
manner defined by the Department of Education. The report shall 73426

indicate separately both state and local dollars utilized by 73427
school districts for intervention activities. 73428

To the degree that school districts do not meet adequate 73429
progress standards as defined by the Department of Education, the 73430
Department shall use the reported information to intervene at the 73431
district and building levels to make recommendations on how state 73432
and local funding for intervention should be deployed in a more 73433
effective manner. This information shall also be used by the 73434
Department to inform its recommendations required in the section 73435
of this act entitled "DISTRICT SPENDING REQUIREMENTS." 73436

Section 206.09.93. EARMARK ACCOUNTABILITY 73437

At the request of the Superintendent of Public Instruction, 73438
any entity that receives a budget earmark under the Department of 73439
Education shall submit annually to the chairpersons of the 73440
committees of the House of Representatives and the Senate 73441
primarily concerned with education and to the Department of 73442
Education a report that includes a description of the services 73443
supported by the funds, a description of the results achieved by 73444
those services, an analysis of the effectiveness of the program, 73445
and an opinion as to the program's applicability to other school 73446
districts. For an earmarked entity that received state funds from 73447
an earmark in the prior fiscal year, no funds shall be provided by 73448
the Department of Education to an earmarked entity for a fiscal 73449
year until its report for the prior fiscal year has been 73450
submitted. 73451

Section 206.09.96. The School Funding Advisory Council is 73452
hereby created. The Council shall consist of not more than sixteen 73453
members, appointed as follows: 73454

(A) The Governor shall appoint up to six members, who shall 73455
be representatives of the business and education communities. 73456

(B) The Governor shall appoint one member from the Department of Education and up to three additional members from other executive branch agencies.

(C) The Speaker of the House of Representatives shall appoint up to three members who are members of the House of Representatives, including at least one who is a member of the minority party of the House of Representatives.

(D) The President of the Senate shall appoint up to three members who are members of the Senate, including at least one who is a member of the minority party of the Senate.

The Governor, Speaker of the House of Representatives, and President of the Senate shall make their appointments not later than December 31, 2005. The Governor shall designate one representative of the business community appointed under division (A) of this section to serve as chairperson of the Council. Members shall serve without compensation.

The Council shall examine research, including, but not limited to, research underway by Battelle for Kids and the University of Washington's Center for Reinventing Public Education, to further refine a building-blocks methodology for school funding so that increasingly stronger correlations exist between resources and academic results. The Council's other activities shall include, but not be limited to, examining timeline issues with regard to recommendations of the Governor's Blue Ribbon Task Force on Financing Student Success. The Council shall submit its recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later than September 30, 2006. When it submits its recommendations, the Council shall cease to exist.

Section 206.09.99. The revisions by this act to the

Post-Secondary Enrollment Options Program established under 73487
Chapter 3365. of the Revised Code shall apply as follows: 73488

(A) The amendment to the definition of "tuition base" in 73489
section 3365.01 of the Revised Code, as amended by this act, shall 73490
apply to payments for courses taken beginning in the 2005-2006 73491
school year. 73492

(B) The requirement that a secondary grade student be a 73493
resident of this state in order to participate in the 73494
Post-Secondary Enrollment Options Program as specified in section 73495
3365.02 of the Revised Code, as amended by this act, shall not 73496
apply to students participating in the program during fiscal year 73497
2005. That requirement applies to students participating in the 73498
program after July 1, 2005, regardless of whether they 73499
participated in the program prior to that date. 73500

(C) The statement in section 3365.02 of the Revised Code, as 73501
amended by this act, concerning the purpose of the program applies 73502
to courses taken beginning in the 2005-2006 school year. 73503

(D) The provision prohibiting students enrolled in 73504
nonchartered nonpublic schools from participating in Option B of 73505
the program, as specified in sections 3365.02, 3365.021, 3365.04, 73506
3365.07, and 3365.10 of the Revised Code, as amended by this act, 73507
shall apply beginning in the 2006-2007 school year. 73508

(E) The provision prohibiting participating under Option B 73509
for enrollment in physical education college courses, as specified 73510
in sections 3365.02, 3365.04, and 3365.07 of the Revised Code, as 73511
amended by this act, shall apply beginning in the 2006-2007 school 73512
year. 73513

(F) The requirement to seek reimbursement for college courses 73514
that a student failed, as specified in section 3365.02 of the 73515
Revised Code, as amended by this act, and section 3365.11 of the 73516

Revised Code, shall apply to courses taken beginning in the 73517
2005-2006 school year. 73518

Section 206.10.03. Not later than September 1, 2005, the 73519
Superintendent of Public Instruction shall begin preparations to 73520
implement the Educational Choice Scholarship Program established 73521
by sections 3310.01 to 3310.17 of the Revised Code. The 73522
Superintendent shall ensure that school districts, nonpublic 73523
schools, students, and parents are informed of the Educational 73524
Choice Scholarship Program and how the Program may affect them. 73525
The Superintendent shall provide such information in sufficient 73526
time for affected parties to meet all deadlines imposed for 73527
participation in the Educational Choice Scholarship Program in the 73528
2006-2007 school year. The State Board of Education shall adopt 73529
the rules required by section 3310.16 of the Revised Code so that 73530
those rules are in effect and the Educational Choice Scholarship 73531
Program is operational in the school year that commences July 1, 73532
2006. 73533

The Superintendent shall select not more than 18,000 students 73534
in fiscal year 2007 to be awarded scholarships under the 73535
Educational Choice Scholarship Program. 73536

Section 206.10.06. There is hereby established a committee to 73537
study the consolidation of school districts. The committee shall 73538
consist of three members of the House of Representatives, 73539
appointed by the Speaker of the House of Representatives, and 73540
three members of the Senate, appointed by the President of the 73541
Senate. From each house, two members shall be of the majority 73542
party and one member shall be of the minority party. The Speaker 73543
of the House of Representatives shall designate the chairman of 73544
the committee. Members shall not receive compensation for their 73545
services. 73546

The committee shall study the feasibility of city, local, and exempted village school district consolidation and the economic impact, including possible cost savings, of consolidation for the state and school districts. If the committee determines school district consolidation is feasible, the committee shall recommend legislation to accomplish the consolidation.

The committee shall report its findings to the General Assembly not later than one year after the effective date of this section. Copies of the findings shall be provided to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the chairpersons, vice-chairpersons, and ranking minority members of the education committees of the House of Representatives and the Senate. Following its report of findings, the committee shall cease to exist.

***Section 206.10.09.** Within thirty days after the effective date of this section, the Department of Education shall notify each entity approved to be a sponsor of community schools pursuant to division (B)(1) of section 3314.015 of the Revised Code prior to the effective date of this section and each entity that is not required to be so approved by section 3314.021 of the Revised Code or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the number of schools the entity may sponsor under that division.

Section 206.10.12. (A) The School Physical Fitness and Wellness Advisory Council is hereby established. The Council shall consist of the following members:

(1) A representative of the Ohio Association for Health, Physical Education, Recreation and Dance, appointed by the Association;

(2) A school food service director, appointed by the Ohio

School Food Service Association;	73577
(3) A representative of the Ohio School Boards Association, appointed by the Association;	73578 73579
(4) A registered dietician, appointed by the Ohio Dietetic Association;	73580 73581
(5) A representative of the Ohio State Medical Association, appointed by the Association;	73582 73583
(6) A representative of the food industry, appointed by the Ohio Chamber of Commerce;	73584 73585
(7) A representative of the Ohio Parent Teacher Association, appointed by the Association;	73586 73587
(8) A representative of the Ohio Soft Drink Association, appointed by the Association;	73588 73589
(9) A representative of the Department of Education, appointed by the Superintendent of Public Instruction;	73590 73591
(10) A representative of the Ohio Parks and Recreation Association, appointed by the Association.	73592 73593
(B) Appointments to the Council shall be made within thirty days after the effective date of this section. The representative of the Department shall be the chairperson of the Council. The Council shall meet at least every two months. The Department shall provide administrative support to the Council in the performance of its duties.	73594 73595 73596 73597 73598 73599
(C) The Council shall develop guidelines for best practices regarding nutrition education, physical activity for students, and school-based activities and school-business partnerships that promote student wellness. For this purpose, the Council shall examine research concerning these issues and review existing guidelines and best practices established by associations or governmental entities at the national, state, and local levels.	73600 73601 73602 73603 73604 73605 73606

The best practices guidelines developed by the Council shall
provide information that school districts participating in a
school lunch program under the "National School Lunch Act," 60
Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when
adopting local wellness policies as required by the "Child
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended.
The Council also shall develop strategies for districts to use in
evaluating the implementation of their local wellness policies to
determine if the goals and objectives described in those policies
are being met.

(D) Not later than December 31, 2005, the Council shall
compile a written report containing its best practices guidelines
and evaluation strategies. Copies of the report shall be provided
to each school district participating in a school lunch program as
described in division (C) of this section, the Governor, the
Speaker of the House of Representatives, and the President of the
Senate. Upon submission of its report, the Council shall cease to
exist.

Section 206.10.15. For fiscal years 2006 and 2007, the
Department of Education shall provide funding to the Ohio Wyami
Appalachian Teacher Cohorts Program under the Columbiana County
Educational Service Center to provide teacher professional
development in Ohio's Appalachian counties. The program shall
provide professional development that is based on a review of
scientifically based research and is expected to improve student
academic achievement as required by Title II of the "No Child Left
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6612 et seq., for
approximately eighty public and charter nonpublic teachers from
Ohio's Appalachian counties each year. The Department of Education
shall provide \$1,500,000 each fiscal year in federal grant funds
from the State Grants For Improving Teacher Quality Program to the

Columbiana County Educational Service Center for this purpose. 73638

Section 206.13. ELC OHIO ELECTIONS COMMISSION 73639

General Revenue Fund 73640

GRF 051-321 Operating Expenses \$ 411,623 \$ 411,623 73641

TOTAL GRF General Revenue Fund \$ 411,623 \$ 411,623 73642

General Services Fund Group 73643

4P2 051-601 Ohio Elections 73644

Commission Fund \$ 225,000 \$ 225,000 73645

TOTAL GSF General Services Fund \$ 225,000 \$ 225,000 73646

Group

TOTAL ALL BUDGET FUND GROUPS \$ 636,623 \$ 636,623 73647

Section 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL 73649

DIRECTORS 73650

General Services Fund Group 73651

4K9 881-609 Operating Expenses \$ 598,933 \$ 0 73652

TOTAL GSF General Services 73653

Fund Group \$ 598,933 \$ 0 73654

TOTAL ALL BUDGET FUND GROUPS \$ 598,933 \$ 0 73655

Section 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD 73657

General Revenue Fund 73658

GRF 125-321 Operating Expenses \$ 3,265,397 \$ 3,363,359 73659

TOTAL GRF General Revenue Fund \$ 3,265,397 \$ 3,363,359 73660

General Services Fund Group 73661

572 125-603 Training and \$ 75,541 \$ 75,541 73662

Publications

TOTAL GSF General Services 73663

Fund Group \$ 75,541 \$ 75,541 73664

TOTAL ALL BUDGET FUND GROUPS \$ 3,340,938 \$ 3,438,900 73665

Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				73667
General Services Fund Group				73668
4K9 892-609 Operating Expenses	\$	1,058,881	\$ 1,058,881	73669
TOTAL GSF General Services				73670
Fund Group	\$	1,058,881	\$ 1,058,881	73671
TOTAL ALL BUDGET FUND GROUPS				73672
 Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY				73674
General Revenue Fund				73675
GRF 715-403 Clean Ohio	\$	92,707	\$ 0	73676
GRF 715-501 Local Air Pollution	\$	128,297	\$ 0	73677
Control				
GRF 717-321 Surface Water	\$	1,112,342	\$ 0	73678
GRF 718-321 Groundwater	\$	136,719	\$ 0	73679
GRF 719-321 Air Pollution Control	\$	311,494	\$ 0	73680
GRF 721-321 Drinking Water	\$	318,783	\$ 0	73681
GRF 723-321 Hazardous Waste	\$	12,606	\$ 0	73682
GRF 724-321 Pollution Prevention	\$	87,538	\$ 0	73683
GRF 725-321 Laboratory	\$	152,043	\$ 0	73684
GRF 726-321 Corrective Actions	\$	147,473	\$ 0	73685
TOTAL GRF General Revenue Fund				73686
General Services Fund Group				73687
199 715-602 Laboratory Services	\$	1,078,348	\$ 1,083,574	73688
219 715-604 Central Support	\$	15,804,913	\$ 16,345,805	73689
Indirect				
4A1 715-640 Operating Expenses	\$	3,369,731	\$ 3,369,731	73690
5BZ 715-681 Auto Emissions Test	\$	6,100,000	\$ 12,200,000	73691
TOTAL GSF General Services				73692
Fund Group	\$	26,352,992	\$ 32,999,110	73693
Federal Special Revenue Fund Group				73694
3F2 715-630 Revolving Loan Fund -	\$	152,021	\$ 293,129	73695

		Operating					
3F3	715-632	Fed Supported Cleanup and Response	\$	2,792,648	\$	2,777,648	73696
3F4	715-633	Water Quality Management	\$	710,000	\$	710,000	73697
3F5	715-641	Nonpoint Source Pollution Management	\$	7,815,000	\$	7,810,000	73698
3J1	715-620	Urban Stormwater	\$	706,000	\$	710,000	73699
3K2	715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846	73700
3K4	715-634	DOD Monitoring and Oversight	\$	1,450,333	\$	1,450,333	73701
3K6	715-639	Remedial Action Plan	\$	320,000	\$	319,000	73702
3N4	715-657	DOE Monitoring and Oversight	\$	3,181,736	\$	3,231,963	73703
3V7	715-606	Agencywide Grants	\$	458,115	\$	479,115	73704
352	715-611	Wastewater Pollution	\$	525,000	\$	530,000	73705
353	715-612	Public Water Supply	\$	3,384,959	\$	3,388,619	73706
354	715-614	Hazardous Waste Management - Federal	\$	4,203,891	\$	4,203,891	73707
357	715-619	Air Pollution Control - Federal	\$	6,966,337	\$	7,243,950	73708
362	715-605	Underground Injection Control - Federal	\$	111,874	\$	111,874	73709
TOTAL FED		Federal Special Revenue					73710
Fund Group			\$	37,501,759	\$	38,283,368	73711
State Special Revenue		Fund Group					73712
3T3	715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910	73713
4J0	715-638	Underground Injection Control	\$	438,285	\$	458,418	73714
4K2	715-648	Clean Air - Non Title V	\$	3,234,278	\$	3,178,062	73715
4K3	715-649	Solid Waste	\$	13,800,377	\$	14,282,845	73716
4K4	715-650	Surface Water	\$	11,606,000	\$	12,420,000	73717

		Protection				
4K5	715-651	Drinking Water	\$	7,202,901	\$	7,492,035 73718
		Protection				
4P5	715-654	Cozart Landfill	\$	149,728	\$	149,728 73719
4R5	715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000 73720
4R9	715-658	Voluntary Action	\$	1,008,765	\$	1,032,098 73721
		Program				
4T3	715-659	Clean Air - Title V	\$	16,960,373	\$	17,180,980 73722
		Permit Program				
4U7	715-660	Construction &	\$	586,797	\$	582,305 73723
		Demolition Debris				
5BC	715-617	Clean Ohio	\$	741,646	\$	741,646 73724
5BC	715-622	Local Air Pollution	\$	1,026,369	\$	1,026,369 73725
		Control				
5BC	715-624	Surface Water	\$	8,797,413	\$	8,797,413 73726
5BC	715-667	Groundwater	\$	1,093,741	\$	1,093,741 73727
5BC	715-672	Air Pollution Control	\$	4,343,324	\$	4,343,325 73728
5BC	715-673	Drinking Water	\$	2,550,250	\$	2,550,250 73729
5BC	715-675	Hazardous Waste	\$	100,847	\$	100,847 73730
5BC	715-676	Assistance and	\$	700,302	\$	700,302 73731
		Prevention				
5BC	715-677	Laboratory	\$	1,216,333	\$	1,216,333 73732
5BC	715-678	Corrective Action	\$	1,179,775	\$	1,179,775 73733
5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871 73734
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000 73735
500	715-608	Immediate Removal	\$	482,000	\$	482,000 73736
		Special Account				
503	715-621	Hazardous Waste	\$	11,270,231	\$	11,711,473 73737
		Facility Management				
505	715-623	Hazardous Waste	\$	11,482,988	\$	11,482,988 73738
		Cleanup				
505	715-674	Clean Ohio	\$	104,500	\$	109,725 73739
		Environmental Review				

541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650	73740
542	715-671	Risk Management	\$	146,188	\$	146,188	73741
		Reporting					
592	715-627	Anti Tampering	\$	17,203	\$	9,707	73742
		Settlement					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	73743
		Education					
602	715-626	Motor Vehicle	\$	1,190,944	\$	250,000	73744
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114	73745
660	715-629	Infectious Waste	\$	160,000	\$	100,000	73746
		Management					
676	715-642	Water Pollution	\$	4,964,625	\$	4,964,625	73747
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	210,621	\$	210,622	73748
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647	73749
696	715-643	Air Pollution Control	\$	750,000	\$	750,000	73750
		Administration					
699	715-644	Water Pollution	\$	750,000	\$	750,000	73751
		Control Administration					
TOTAL SSR		State Special Revenue	\$	123,682,101	\$	125,064,992	73752
		Fund Group					
		Clean Ohio Revitalization Fund Group					73753
5S1	715-607	Clean Ohio - Operating	\$	208,174	\$	208,174	73754
TOTAL CLF		Clean Ohio Revitalization	\$	208,174	\$	208,174	73755
		Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$	190,245,028	\$	196,555,644	73756
		AUTOMOBILE EMISSIONS TESTS					73757
		(A) There is hereby created the Auto Emissions Test Fund					73758
		(Fund 5BZ). When renewing a contract to continue the E-check					73759

program after December 31, 2005, the Ohio Environmental Protection Agency (EPA) shall use the foregoing appropriation item 715-681, Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BZ), to pay for up to \$19.50 per test for auto emissions tests in counties still designated as non-attainment or designated by the General Assembly to continue such tests under mandate of the federal Clean Air Act. These amounts are hereby appropriated.

(B)(1) Notwithstanding section 183.02 of the Revised Code, on July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$8,100,000 cash from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BZ) in the Environmental Protection Agency. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2006, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BZ) under this division.

(2) Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$15,200,000 cash from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BZ) in the Environmental Protection Agency. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 2007, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust

Fund (Fund H87) shall be reduced by the amount that is transferred 73792
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 73793
the Auto Emissions Test Fund (Fund 5BZ) under this division. 73794

NPDES TRANSFER TO AGRICULTURE 73795

On or after the date on which the United States Environmental 73796
Protection Agency approves the state program submitted under 73797
division (A)(1) of section 903.08 of the Revised Code, and federal 73798
moneys are disbursed for this purpose, the Controlling Board shall 73799
transfer those funds from the Environmental Protection Agency to 73800
the Department of Agriculture. 73801

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND 73802

On July 1, 2005, or as soon as possible thereafter, the 73803
Director of Budget and Management may transfer \$1,000,000 in cash 73804
from the Central Support Indirect Fund (Fund 219) into the 73805
Environmental Protection Fund (Fund 5BC). 73806

On July 1, 2005, or as soon as possible thereafter, the 73807
Director of Budget and Management may transfer \$6,000,000 in cash 73808
from the Hazardous Waste Facility Management Fund (Fund 503) into 73809
the Environmental Protection Fund (Fund 5BC). 73810

On July 1, 2005, or as soon as possible thereafter, the 73811
Director of Budget and Management may transfer \$3,000,000 in cash 73812
from the Solid Waste Fund (Fund 4K3) into the Environmental 73813
Protection Fund (Fund 5BC). 73814

On July 1, 2005, or as soon as possible thereafter, the 73815
Director of Budget and Management may transfer \$1,000,000 in cash 73816
from the Hazardous Waste Cleanup Fund (Fund 505) into the 73817
Environmental Protection Fund (Fund 5BC). 73818

Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 73819

General Revenue Fund 73820

GRF 172-321 Operating Expenses	\$	479,161	\$	483,859	73821
TOTAL GRF General Revenue Fund	\$	479,161	\$	483,859	73822
TOTAL ALL BUDGET FUND GROUPS	\$	479,161	\$	483,859	73823

Section 206.33. ETH OHIO ETHICS COMMISSION 73825

General Revenue Fund					73826
GRF 146-321 Operating Expenses	\$	1,476,213	\$	1,476,213	73827
TOTAL GRF General Revenue Fund	\$	1,476,213	\$	1,476,213	73828
General Services Fund Group					73829
4M6 146-601 Operating Expenses	\$	502,543	\$	432,543	73830
TOTAL GSF General Services					73831
Fund Group	\$	502,543	\$	432,543	73832
TOTAL ALL BUDGET FUND GROUPS	\$	1,978,756	\$	1,908,756	73833

Section 206.36. EXP OHIO EXPOSITIONS COMMISSION 73835

General Revenue Fund					73836
GRF 723-403 Junior Fair Subsidy	\$	400,000	\$	400,000	73837
TOTAL GRF General Revenue Fund	\$	400,000	\$	400,000	73838
State Special Revenue Fund Group					73839
4N2 723-602 Ohio State Fair	\$	520,000	\$	520,000	73840
Harness Racing					
506 723-601 Operating Expenses	\$	13,643,315	\$	13,643,315	73841
TOTAL SSR State Special Revenue					73842
Fund Group	\$	14,163,315	\$	14,163,315	73843
TOTAL ALL BUDGET FUND GROUPS	\$	14,563,315	\$	14,563,315	73844

Section 206.39. GOV OFFICE OF THE GOVERNOR 73846

General Revenue Fund					73847
GRF 040-321 Operating Expenses	\$	3,981,582	\$	3,981,582	73848
GRF 040-403 Federal Relations	\$	422,760	\$	422,760	73849
GRF 040-408 Office of Veterans'	\$	267,923	\$	267,923	73850
Affairs					

TOTAL GRF General Revenue Fund	\$	4,672,265	\$	4,672,265	73851
General Services Fund Group					73852
5AK 040-607 Federal Relations	\$	354,514	\$	354,514	73853
TOTAL GSF General Services Fund Group	\$	354,514	\$	354,514	73854
TOTAL ALL BUDGET FUND GROUPS	\$	5,026,779	\$	5,026,779	73855
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR					73856
The Governor may expend a portion of the foregoing					73857
appropriation item 040-321, Operating Expenses, to hire or appoint					73858
legal counsel to be used in proceedings involving the Governor in					73859
the Governor's official capacity or the Governor's office only,					73860
without the approval of the Attorney General, notwithstanding					73861
sections 109.02 and 109.07 of the Revised Code.					73862
FEDERAL RELATIONS					73863
A portion of the foregoing appropriation items 040-403,					73864
Federal Relations, and 040-607, Federal Relations, may be used to					73865
support Ohio's membership in national or regional associations.					73866
The Office of the Governor may charge any state agency of the					73867
executive branch using an intrastate transfer voucher such amounts					73868
necessary to defray the costs incurred for the conduct of federal					73869
relations associated with issues that can be attributed to the					73870
agency. Amounts collected shall be deposited to the Office of the					73871
Governor Federal Relations Fund (Fund 5AK).					73872
Section 206.42. DOH DEPARTMENT OF HEALTH					73873
General Revenue Fund					73874
GRF 440-407 Animal Borne Disease	\$	2,452,101	\$	2,452,101	73875
and Prevention					
GRF 440-412 Cancer Incidence	\$	1,002,619	\$	1,002,619	73876
Surveillance System					
GRF 440-413 Local Health	\$	3,786,794	\$	3,786,794	73877

		Department Support					
GRF	440-416	Child and Family	\$	9,042,874	\$	9,042,874	73878
		Health Services					
GRF	440-418	Immunizations	\$	8,600,615	\$	8,600,615	73879
GRF	440-444	AIDS Prevention and	\$	7,158,127	\$	7,158,127	73880
		Treatment					
GRF	440-446	Infectious Disease	\$	200,000	\$	200,000	73881
		Prevention					
GRF	440-451	Lab and Public Health	\$	6,085,250	\$	6,085,250	73882
		Prevention Programs					
GRF	440-452	Child and Family	\$	1,024,017	\$	1,024,017	73883
		Health Services Match					
GRF	440-453	Health Care Quality	\$	10,253,728	\$	10,253,728	73884
		Assurance					
GRF	440-454	Local Environmental	\$	889,752	\$	889,752	73885
		Health					
GRF	440-459	Help Me Grow	\$	9,323,797	\$	9,323,797	73886
GRF	440-461	Center for Vital and	\$	3,629,535	\$	3,629,535	73887
		Health Stats					
GRF	440-505	Medically Handicapped	\$	8,791,784	\$	8,791,784	73888
		Children					
GRF	440-507	Targeted Health Care	\$	731,023	\$	731,023	73889
		Services Over 21					
TOTAL GRF		General Revenue Fund	\$	72,972,016	\$	72,972,016	73890
		General Services Fund Group					73891
142	440-618	Agency Health Services	\$	2,461,915	\$	2,561,915	73892
211	440-613	Central Support	\$	26,584,707	\$	26,584,707	73893
		Indirect Costs					
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	73894
683	440-633	Employee Assistance	\$	1,208,214	\$	1,208,214	73895
		Program					
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	73896
TOTAL GSF		General Services					73897

Fund Group		\$	34,578,881	\$	34,678,881	73898
Federal Special Revenue Fund Group						73899
320 440-601	Maternal Child Health	\$	28,779,322	\$	29,025,635	73900
	Block Grant					
387 440-602	Preventive Health	\$	7,755,005	\$	7,826,659	73901
	Block Grant					
389 440-604	Women, Infants, and	\$	219,920,083	\$	230,077,451	73902
	Children					
391 440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959	73903
392 440-618	Federal Public Health	\$	126,678,202	\$	127,677,458	73904
	Programs					
TOTAL FED	Federal Special Revenue					73905
Fund Group		\$	407,343,810	\$	419,458,162	73906
State Special Revenue Fund Group						73907
4D6 440-608	Genetics Services	\$	2,617,000	\$	2,617,000	73908
4F9 440-610	Sickle Cell Disease	\$	1,035,344	\$	1,035,344	73909
	Control					
4G0 440-636	Heirloom Birth	\$	5,000	\$	5,000	73910
	Certificate					
4G0 440-637	Birth Certificate	\$	5,000	\$	5,000	73911
	Surcharge					
4L3 440-609	Non-Governmental	\$	144,119	\$	144,119	73912
	Grants and Awards					
4T4 440-603	Child Highway Safety	\$	233,894	\$	233,894	73913
4V6 440-641	Save Our Sight	\$	1,767,994	\$	1,767,994	73914
470 440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194	73915
471 440-619	Certificate of Need	\$	581,572	\$	594,572	73916
477 440-627	Medically Handicapped	\$	3,800,000	\$	3,693,016	73917
	Children Audit					
5BL 440-638	Healthy Ohioans	\$	5,000,000	\$	0	73918
5B5 440-616	Quality, Monitoring,	\$	838,479	\$	838,479	73919
	and Inspection					

5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	73920
5D6	440-620	Second Chance Trust	\$	1,054,951	\$	1,054,951	73921
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	73922
5L1	440-623	Nursing Facility Technical Assistance Program	\$	617,517	\$	617,517	73923
610	440-626	Radiation Emergency Response	\$	850,000	\$	850,000	73924
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	73925
XXX	440-XXX	Poison Control Centers	\$	200,000	\$	200,000	73926
TOTAL SSR State Special Revenue							73927
Fund Group			\$	50,572,156	\$	45,478,172	73928
Holding Account Redistribution Fund Group							73929
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	73930
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	73931
TOTAL 090 Holding Account							73932
Redistribution Fund Group			\$	90,000	\$	90,000	73933
TOTAL ALL BUDGET FUND GROUPS			\$	565,556,863	\$	572,677,231	73934

Of the foregoing appropriation item 490-403, PASSPORT, up to \$200,000 in fiscal year 2006 shall be used for the request for proposal process, and for the contracting of and the evaluation of the PASSORT Program, as required under Section 206.66.66 of this act.

Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES 73940

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$1,700,000 in each fiscal year

shall be used for women's health services. 73943

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. 73944
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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. 73947
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$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. 73952
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Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be allocated to the Jewish Community Center in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Vocational Services in Cincinnati, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care. 73961
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Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be provided to the Jewish Family Services in Dayton, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Akron, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Sylvania, \$2,500 in each fiscal year shall be provided 73968
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to the Jewish Community Center in Youngstown, and \$2,500 in each 73974
fiscal year shall be provided to the Jewish Community Center in 73975
Canton. 73976

Section 206.42.06. WOMEN'S HEALTH SERVICES 73977

None of the funds received through grants for women's health 73978
services under this section from the foregoing appropriation item 73979
440-416, Child and Family Health Services, shall be used to 73980
provide abortion services. None of the funds received through 73981
these grants shall be used for counseling for or referrals for 73982
abortion, except in the case of a medical emergency. These funds 73983
shall be distributed by the Director of Health to programs that 73984
the Department of Health determines will provide services that are 73985
physically and financially separate from abortion-providing and 73986
abortion-promoting activities, and that do not include counseling 73987
for or referrals for abortion, other than in the case of medical 73988
emergency. 73989

These women's health services include and are limited to the 73990
following: pelvic examinations and laboratory testing; breast 73991
examinations and patient education on breast cancer; screening for 73992
cervical cancer; screening and treatment for Sexually Transmitted 73993
Diseases (STDs) and HIV screening; voluntary choice of 73994
contraception, including abstinence and natural family planning; 73995
patient education and pre-pregnancy counseling on the dangers of 73996
smoking, alcohol, and drug use during pregnancy; education on 73997
sexual coercion and violence in relationships; and prenatal care 73998
or referral for prenatal care. These health care services shall be 73999
provided by licensed doctors, licensed nurses, licensed medical 74000
assistants, licensed counselors, and licensed social workers in a 74001
medical clinic setting. 74002

The Director of Health shall adopt rules under Chapter 119. 74003
of the Revised Code specifying reasonable eligibility standards 74004

that must be met to receive the state funding and provide 74005
reasonable methods by which a grantee wishing to be eligible for 74006
federal funding may comply with these requirements for state 74007
funding without losing its eligibility for federal funding. 74008

Each applicant for these funds shall provide sufficient 74009
assurance to the Director of Health of all of the following: 74010

(A) The program shall not discriminate in the provision of 74011
services based on an individual's religion, race, national origin, 74012
handicapping condition, age, sex, number of pregnancies, or 74013
marital status; 74014

(B) The program shall provide services without subjecting 74015
individuals to any coercion to accept services or to employ any 74016
particular methods of family planning; 74017

(C) Acceptance of services shall be solely on a voluntary 74018
basis and may not be made a prerequisite to eligibility for, or 74019
receipt of, any other service, assistance from, or participation 74020
in, any other program of the service provider; 74021

(D) The costs for services provided by the program, if any 74022
are charged, shall be based on the patient's ability to pay and 74023
priority in the provision of services shall be given to persons 74024
from low-income families. 74025

In distributing these grant funds, the Director of Health 74026
shall give priority to grant requests from local departments of 74027
health for women's health services to be provided directly by 74028
personnel of the local department of health. The Director of 74029
Health shall issue a single request for proposals for all grants 74030
under this set-aside. The Director of Health shall send a 74031
notification of this request for proposals to every local 74032
department of health in this state and shall place a notification 74033
on the department's web site. The Director shall allow at least 30 74034
days after issuing this notification before closing the period to 74035

receive applications. 74036

After the closing date for receiving grant applications, the 74037
Director of Health shall first consider grant applications from 74038
local departments of health that apply for grants for women's 74039
health services to be provided directly by personnel of the local 74040
department of health. Local departments of health that apply for 74041
grants for women's health services to be provided directly by 74042
personnel of the local department of health need not provide all 74043
the listed women's health services in order to qualify for a 74044
grant. However, in prioritizing awards among local departments of 74045
health that qualify for funding under this paragraph, the Director 74046
of Health may consider, among other reasonable factors, the 74047
comprehensiveness of the women's health services to be offered, 74048
provided that no local department of health shall be discriminated 74049
against in the process of awarding these grant funds because the 74050
applicant does not provide contraception. 74051

If funds remain after awarding grants to all local 74052
departments of health that qualify for the priority, the Director 74053
of Health may make grants to other applicants. Awards to other 74054
applicants may be made to those applicants that will offer all 74055
eight of the listed women's health services or that will offer all 74056
of the services except contraception. No applicant shall be 74057
discriminated against in the process of awarding these grant funds 74058
because the applicant does not provide contraception. 74059

Section 206.42.09. HIV/AIDS PREVENTION/TREATMENT 74060

Of the foregoing appropriation item 440-444, AIDS Prevention 74061
and Treatment, not more than \$6.7 million per fiscal year shall be 74062
used to assist persons with HIV/AIDS in acquiring HIV-related 74063
medications. 74064

INFECTIOUS DISEASE PREVENTION 74065

The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually transmitted diseases. 74066
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HELP ME GROW 74069

The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow Program. Appropriation item 440-459, Help Me Grow, may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children. Local contracts shall be developed between local departments of job and family services and family and children first councils for the administration of TANF funding for the Help Me Grow Program. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Mental Retardation and Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked. 74070
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TARGETED HEALTH CARE SERVICES OVER 21 74088

In each fiscal year, appropriation item 440-507, Targeted Health Care Services Over 21, shall be used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment Program. 74089
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MATERNAL CHILD HEALTH BLOCK GRANT 74093

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The 74094
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Director of Health shall develop guidelines for the establishment 74097
of abstinence programs for teenagers with the purpose of 74098
decreasing unplanned pregnancies and abortion. The guidelines 74099
shall be developed under Title V of the "Social Security Act," 42 74100
U.S.C. 510, and shall include, but are not limited to, advertising 74101
campaigns and direct training in schools and other locations. 74102

GENETICS SERVICES 74103

The foregoing appropriation item 440-608, Genetics Services 74104
(Fund 4D6), shall be used by the Department of Health to 74105
administer programs authorized by sections 3701.501 and 3701.502 74106
of the Revised Code. None of these funds shall be used to counsel 74107
or refer for abortion, except in the case of a medical emergency. 74108

SAFETY AND QUALITY OF CARE STANDARDS 74109

The Department of Health may use Fund 471, Certificate of 74110
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 74111
the Revised Code in each fiscal year. 74112

MEDICALLY HANDICAPPED CHILDREN AUDIT 74113

The Medically Handicapped Children Audit Fund (Fund 477) 74114
shall receive revenue from audits of hospitals and recoveries from 74115
third-party payers. Moneys may be expended for payment of audit 74116
settlements and for costs directly related to obtaining recoveries 74117
from third-party payers and for encouraging Medically Handicapped 74118
Children's Program recipients to apply for third-party benefits. 74119
Moneys also may be expended for payments for diagnostic and 74120
treatment services on behalf of medically handicapped children, as 74121
defined in division (A) of section 3701.022 of the Revised Code, 74122
and Ohio residents who are twenty-one or more years of age and who 74123
are suffering from cystic fibrosis or hemophilia. Moneys may also 74124
be expended for administrative expenses incurred in operating the 74125
Medically Handicapped Children's Program. 74126

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND 74127
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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. 74129
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The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) created in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule. 74135
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MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 74139

The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments under division (E) of section 3701.023 of the Revised Code. 74140
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Section 206.42.12. MEDICALLY HANDICAPPED CHILDREN - FUTURE FUNDING 74144
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(A) There is hereby created the Legislative Committee on the Future Funding of the Bureau for Children with Medical Handicaps. The Speaker of the House of Representatives shall appoint three members of the House of Representatives, not more than two of whom shall belong to the same political party as the Speaker. The President of the Senate shall appoint three members of the Senate, not more than two of whom shall belong to the same political party as the President. The Speaker of the House of Representatives and the President of the Senate shall each appoint one member of the general public who suffers from a disease or disorder covered by the Program for Medically Handicapped Children (otherwise known as 74146
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the Bureau for Children with Medical Handicaps) in the Ohio
Department of Health. The Governor shall appoint two members of
the general public who suffer from a disease or disorder covered
by the Program. The following also shall serve on the Committee:

(1) The Director of Health, or the Director's designee;

(2) The Director of Budget and Management, or the Director's
designee;

(3) The Superintendent of Insurance, or the Superintendent's
designee;

(4) The Director of Job and Family Services, or the
Director's designee;

(5) One person designated by the County Commissioners
Association of Ohio;

(6) One person designated by the Ohio Children's Hospital
Association;

(7) One person designated by the Ohio Association of Health
Plans;

(8) One person designated by the American Academy of
Pediatrics.

Members of the Committee shall elect a chairperson. A
majority of the members of the Committee constitutes a quorum for
the conduct of Committee meetings.

(B) Members of the Committee shall receive no compensation.

(C) The Committee shall do all of the following:

(1) Examine the current status of the Program and recommend
best practices to be used in assisting working parents who have
children with special health needs;

(2) Review all existing statutes and rules in Ohio pertaining
to the Program;

(3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;

(4) Review all funding sources for the Program, including funding received from county levies, the General Revenue Fund and other state-based sources, and the Maternal and Child Health Block Grant of Title V of the "Social Security Act," 40 Stat. 620 (1935), 42 U.S.C. 301;

(5) Request testimony from parents of children with special health needs and the children themselves and from health care professionals and other individuals who provide services to Bureau patients;

(D) Not later than December 31, 2005, the Committee shall make recommendations and submit a report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report shall include an analysis of the current system of services covered by the Program and may include determinations and recommendations regarding how the state can best address the current and future needs of patients served by the Program. On submission of the report, the Committee shall cease to exist.

Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR MEDICALLY HANDICAPPED CHILDREN

Not later than December 1, 2005, the Public Health Council shall revise rule 3701-43-16 of the Administrative Code regarding financial eligibility for payment for treatment under the Program for Medically Handicapped Children. As part of the revision, the Public Health Council shall return the financial eligibility levels for fiscal years 2006 and 2007 to the levels in effect prior to October 13, 2003.

Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE	74216
PROGRAM	74217
The Director of Budget and Management shall transfer, by	74218
intrastate transfer voucher, each fiscal year, cash from Fund 4E3,	74219
Resident Protection Fund, in the Ohio Department of Job and Family	74220
Services, to Fund 5L1, Nursing Facility Technical Assistance	74221
Program Fund, in the Ohio Department of Health, to be used under	74222
section 3721.026 of the Revised Code. The transfers shall equal	74223
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007.	74224
Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND	74225
(FUND 546) TO THE POISON CONTROL FUND (FUND XXX) IN THE DEPARTMENT	74226
OF HEALTH	74227
Notwithstanding section 3737.71 of the Revised Code, on July	74228
1, 2005, or as soon as possible thereafter, the Director of Budget	74229
and Management shall transfer \$200,000 cash from the State Fire	74230
Marshal's Fund (Fund 546) in the Department of Commerce to the	74231
Poison Control Fund (Fund XXX) in the Department of Health, which	74232
is hereby created. Notwithstanding section 3737.71 of the Revised	74233
Code, on July 1, 2006, or as soon as possible thereafter, the	74234
Director of Budget and Management shall transfer \$200,000 cash	74235
from the State Fire Marshal's Fund (Fund 546) in the Department of	74236
Commerce to the Poison Control Fund (Fund XXX) in the Department	74237
of Health.	74238
POISON CONTROL CENTERS	74239
Of the foregoing appropriation item 440-XXX, Poison Control	74240
Centers, in each fiscal year, the poison control centers in the	74241
municipal corporations of Cleveland, Cincinnati, Columbus, and	74242
Dayton shall each be awarded a grant of \$50,000.	74243
Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION	74244

Agency Fund Group				74245
461 372-601 Operating Expenses	\$	16,819	\$ 16,819	74246
TOTAL AGY Agency Fund Group	\$	16,819	\$ 16,819	74247
TOTAL ALL BUDGET FUND GROUPS	\$	16,819	\$ 16,819	74248

Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 74250

General Revenue Fund				74251
GRF 148-100 Personal Services	\$	145,880	\$ 145,880	74252
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	74253
TOTAL GRF General Revenue Fund	\$	181,781	\$ 181,781	74254
General Services Fund Group				74255
601 148-602 Gifts and	\$	5,000	\$ 5,000	74256
Miscellaneous				
TOTAL GSF General Services				74257
Fund Group	\$	5,000	\$ 5,000	74258
TOTAL ALL BUDGET FUND GROUPS	\$	186,781	\$ 186,781	74259

Section 206.51. OHS OHIO HISTORICAL SOCIETY 74261

General Revenue Fund				74262
GRF 360-501 Operating Subsidy	\$	3,288,274	\$ 3,288,274	74263
GRF 360-502 Site Operations	\$	8,138,725	\$ 8,138,725	74264
GRF 360-504 Ohio Preservation	\$	281,041	\$ 281,041	74265
Office				
GRF 360-505 Afro-American Museum	\$	754,884	\$ 754,884	74266
GRF 360-506 Hayes Presidential	\$	509,231	\$ 509,231	74267
Center				
GRF 360-508 Historical Grants	\$	410,000	\$ 210,000	74268
TOTAL GRF General Revenue Fund	\$	13,382,155	\$ 13,182,155	74269
TOTAL ALL BUDGET FUND GROUPS	\$	13,382,155	\$ 13,182,155	74270

SUBSIDY APPROPRIATION 74271

Upon approval by the Director of Budget and Management, the 74272

foregoing appropriation items shall be released to the Ohio
Historical Society in quarterly amounts that in total do not
exceed the annual appropriations. The funds and fiscal records of
the society for fiscal years 2006 and 2007 shall be examined by
independent certified public accountants approved by the Auditor
of State, and a copy of the audited financial statements shall be
filed with the Office of Budget and Management. The society shall
prepare and submit to the Office of Budget and Management the
following:

(A) An estimated operating budget for each fiscal year of the
biennium. The operating budget shall be submitted at or near the
beginning of each calendar year.

(B) Financial reports, indicating actual receipts and
expenditures for the fiscal year to date. These reports shall be
filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the
contractual consideration provided by the state to support the
state's offer to contract with the Ohio Historical Society under
section 149.30 of the Revised Code.

HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not
limited to, the National Park Service, chooses to take over the
operations or maintenance of the Hayes Presidential Center, in
whole or in part, the Ohio Historical Society shall make
arrangements with the National Park Service or other United States
government agency for the efficient transfer of operations or
maintenance.

HISTORICAL GRANTS

Of the foregoing appropriation item 360-508, Historical
Grants, \$100,000 in each fiscal year shall be distributed to the

Western Reserve Historical Society in Cleveland.				74303	
HISTORICAL GRANTS				74304	
Of the foregoing appropriation item 360-508, Historical				74305	
Grants, \$100,000 in fiscal year 2006 shall be distributed to the				74306	
Great Lakes Historical Society in Vermilion.				74307	
HISTORICAL GRANTS				74308	
Of the foregoing appropriation item 360-508, Historical				74309	
Grants, \$75,000 in each fiscal year shall be distributed to the				74310	
Hebrew Union College in Cincinnati for the Center for Holocaust				74311	
and Humanity Education.				74312	
HISTORICAL GRANTS				74313	
Of the foregoing appropriation item 360-508, Historical				74314	
Grants, \$100,000 in fiscal year 2006 shall be distributed to the				74315	
Harbor Heritage Society Steamship Mather in Cleveland.				74316	
HISTORICAL GRANTS				74317	
Of the foregoing appropriation item 360-508, Historical				74318	
Grants, \$35,000 in each fiscal year shall be distributed to the				74319	
Castle Farm project in the City of Mason.				74320	
Section 206.54. REP OHIO HOUSE OF REPRESENTATIVES				74321	
General Revenue Fund				74322	
GRF 025-321 Operating Expenses	\$	20,169,168	\$	20,370,859	74323
TOTAL GRF General Revenue Fund	\$	20,169,168	\$	20,370,859	74324
General Services Fund Group				74325	
103 025-601 House Reimbursement	\$	1,419,469	\$	1,419,469	74326
4A4 025-602 Miscellaneous Sales	\$	37,474	\$	37,474	74327
TOTAL GSF General Services				74328	
Fund Group	\$	1,456,943	\$	1,456,943	74329
TOTAL ALL BUDGET FUND GROUPS	\$	21,626,111	\$	21,827,802	74330

OPERATING EXPENSES 74331

On July 1, 2005, or as soon as possible thereafter, the Chief 74332
Administrative Officer of the House of Representatives shall 74333
certify to the Director of Budget and Management the total fiscal 74334
year 2005 unencumbered appropriations in appropriation item 74335
025-321, Operating Expenses. The Chief Administrative Officer may 74336
direct the Director of Budget and Management to transfer an amount 74337
not to exceed the total fiscal year 2005 unencumbered 74338
appropriations to fiscal year 2006 for use within appropriation 74339
item 025-321, Operating Expenses. Additional appropriation 74340
authority equal to the amount certified by the Chief 74341
Administrative Officer is hereby appropriated to appropriation 74342
item 025-321, Operating Expenses, in fiscal year 2006. 74343

On July 1, 2006, or as soon as possible thereafter, the Chief 74344
Administrative Officer of the House of Representatives shall 74345
certify to the Director of Budget and Management the total fiscal 74346
year 2006 unencumbered appropriations in appropriation item 74347
025-321, Operating Expenses. The Chief Administrative Officer may 74348
direct the Director of Budget and Management to transfer an amount 74349
not to exceed the total fiscal year 2006 unencumbered 74350
appropriations to fiscal year 2007 for use within appropriation 74351
item 025-321, Operating Expenses. Additional appropriation 74352
authority equal to the amount certified by the Chief 74353
Administrative Officer is hereby appropriated to appropriation 74354
item 025-321, Operating Expenses, in fiscal year 2007. 74355

Section 206.57. HFA OHIO HOUSING FINANCE AGENCY 74356

General Services Fund Group 74357

5AZ 997-601 Housing Finance Agency \$ 8,100,000 \$ 8,100,000 74358

Personal Services

TOTAL GSF General Services Fund \$ 8,100,000 \$ 8,100,000 74359

Group

TOTAL ALL BUDGET FUND GROUPS	\$	8,100,000	\$	8,100,000	74360
Section 206.60. IGO OFFICE OF THE INSPECTOR GENERAL					74362
General Revenue Fund					74363
GRF 965-321 Operating Expenses	\$	800,868	\$	829,085	74364
TOTAL GRF General Revenue Fund	\$	800,868	\$	829,085	74365
General Services Fund Group					74366
4Z3 965-602 Special Investigations	\$	100,000	\$	100,000	74367
TOTAL GSF General Services Fund	\$	100,000	\$	100,000	74368
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	900,868	\$	929,085	74369
SPECIAL INVESTIGATIONS					74370
Of the foregoing appropriation item 965-602, Special					74371
Investigations, up to \$100,000 in each fiscal year may be used for					74372
investigative costs, pursuant to section 121.481 of the Revised					74373
Code.					74374
Section 206.63. INS DEPARTMENT OF INSURANCE					74375
Federal Special Revenue Fund Group					74376
3U5 820-602 OSHIIP Operating Grant	\$	1,080,000	\$	1,080,000	74377
TOTAL FED Federal Special					74378
Revenue Fund Group	\$	1,080,000	\$	1,080,000	74379
State Special Revenue Fund Group					74380
554 820-601 Operating Expenses -	\$	564,754	\$	571,772	74381
OSHIIP					
554 820-606 Operating Expenses	\$	22,654,232	\$	22,832,214	74382
555 820-605 Examination	\$	7,639,581	\$	7,639,581	74383
TOTAL SSR State Special Revenue					74384
Fund Group	\$	30,858,567	\$	31,043,567	74385
TOTAL ALL BUDGET FUND GROUPS	\$	31,938,567	\$	32,123,567	74386
MARKET CONDUCT EXAMINATION					74387

When conducting a market conduct examination of any insurer 74388
 doing business in this state, the Superintendent of Insurance may 74389
 assess the costs of the examination against the insurer. The 74390
 superintendent may enter into consent agreements to impose 74391
 administrative assessments or fines for conduct discovered that 74392
 may be violations of statutes or rules administered by the 74393
 superintendent. All costs, assessments, or fines collected shall 74394
 be deposited to the credit of the Department of Insurance 74395
 Operating Fund (Fund 554). 74396

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 74397

The Director of Budget and Management, at the request of the 74398
 Superintendent of Insurance, may transfer funds from the 74399
 Department of Insurance Operating Fund (Fund 554), created by 74400
 section 3901.021 of the Revised Code, to the Superintendent's 74401
 Examination Fund (Fund 555), created by section 3901.071 of the 74402
 Revised Code, only for expenses incurred in examining domestic 74403
 fraternal benefit societies as required by section 3921.28 of the 74404
 Revised Code. 74405

Section 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 74406

General Revenue Fund 74407

GRF 600-321 Support Services 74408

State \$ 62,797,907 \$ 60,065,397 74409

Federal \$ 8,114,493 \$ 8,454,541 74410

Support Services Total \$ 70,912,400 \$ 68,519,938 74411

GRF 600-410 TANF State \$ 272,619,061 \$ 272,619,061 74412

GRF 600-413 Child Care \$ 84,120,596 \$ 84,120,596 74413

Match/Maintenance of
 Effort

GRF 600-416 Computer Projects 74414

State \$ 114,516,710 \$ 117,226,021 74415

Federal \$ 37,579,198 \$ 34,255,465 74416

	Computer Projects	\$	152,095,908	\$	151,481,486	74417
	Total					
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446	74418
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932	74419
GRF 600-423	Office of Children and Families	\$	5,408,020	\$	5,431,690	74420
GRF 600-442	Public Assistance Reconciliation	\$	30,000,000	\$	30,000,000	74421
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	74422
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	74423
GRF 600-512	Non-TANF Disaster Assistance	\$	1,000,000	\$	1,000,000	74424
GRF 600-521	Entitlement Administration - Local	\$	151,206,401	\$	151,206,401	74425
GRF 600-523	Children and Families Subsidy	\$	69,438,543	\$	69,438,543	74426
GRF 600-528	Adoption Services					74427
	State	\$	33,698,298	\$	35,516,130	74428
	Federal	\$	40,331,807	\$	43,022,485	74429
	Adoption Services	\$	74,030,105	\$	78,538,615	74430
	Total					
TOTAL GRF	General Revenue Fund					74431
	State	\$	874,415,388	\$	876,233,691	74432
	Federal	\$	86,025,498	\$	85,732,491	74433
	GRF Total	\$	960,440,886	\$	961,966,182	74434
	General Services Fund Group					74435
4A8 600-658	Child Support Collections	\$	26,680,794	\$	26,680,794	74436
4R4 600-665	BCII Services/Fees	\$	36,974	\$	36,974	74437
5C9 600-671	Medicaid Program	\$	73,015,021	\$	63,947,536	74438

Support					
5N1	600-677	County Technologies	\$ 1,000,000	\$ 1,000,000	74439
613	600-645	Training Activities	\$ 135,000	\$ 135,000	74440
TOTAL GSF General Services					74441
Fund Group			\$ 100,867,789	\$ 91,800,304	74442
Federal Special Revenue Fund Group					74443
3AW	600-675	Faith Based	\$ 750,000	\$ 750,000	74444
Initiatives					
3A2	600-641	Emergency Food	\$ 2,600,000	\$ 2,800,000	74445
Distribution					
3D3	600-648	Children's Trust Fund	\$ 2,040,524	\$ 2,040,524	74446
Federal					
3F0	600-623	Health Care Federal	\$ 592,984,408	\$ 729,752,692	74447
3F0	600-650	Hospital Care	\$ 343,239,047	\$ 343,239,047	74448
Assurance Match					
3G5	600-655	Interagency	\$ 1,364,802,369	\$ 1,426,954,440	74449
Reimbursement					
3H7	600-617	Child Care Federal	\$ 208,000,000	\$ 208,000,000	74450
3N0	600-628	IV-E Foster Care	\$ 153,963,142	\$ 153,963,142	74451
Maintenance					
3S5	600-622	Child Support Projects	\$ 534,050	\$ 534,050	74452
3V0	600-688	Workforce Investment	\$ 208,322,037	\$ 208,097,948	74453
Act					
3V4	600-678	Federal Unemployment	\$ 153,435,545	\$ 157,202,750	74454
Programs					
3V4	600-679	Unemployment	\$ 3,829,430	\$ 3,800,573	74455
Compensation Review					
Commission - Federal					
3V6	600-689	TANF Block Grant	\$ 756,604,142	\$ 781,983,200	74456
3W3	600-659	TANF/Title XX Transfer	\$ 8,000,000	\$ 5,400,000	74457
327	600-606	Child Welfare	\$ 33,160,190	\$ 33,090,786	74458
331	600-686	Federal Operating	\$ 43,966,134	\$ 44,929,546	74459
384	600-610	Food Stamps and State	\$ 188,238,706	\$ 181,250,799	74460

		Administration				
385	600-614	Refugee Services	\$	5,683,829	\$	5,742,439 74461
395	600-616	Special	\$	4,567,112	\$	4,564,877 74462
		Activities/Child and Family Services				
396	600-620	Social Services Block Grant	\$	120,993,012	\$	121,004,222 74463
397	600-626	Child Support	\$	287,468,576	\$	287,468,576 74464
398	600-627	Adoption Maintenance/ Administration	\$	314,639,519	\$	314,639,519 74465
TOTAL FED		Federal Special Revenue				74466
Fund Group			\$	4,797,821,772	\$	5,017,209,130 74467
State Special Revenue		Fund Group				74468
198	600-647	Children's Trust Fund	\$	6,788,522	\$	6,788,522 74469
4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527 74470
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473 74471
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914 74472
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000 74473
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420 74474
4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984 74475
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000 74476
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131 74477
4R3	600-687	Banking Fees	\$	800,000	\$	800,000 74478

4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	74479
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000	74480
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000	74481
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121	74482
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000	74483
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000	74484
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761	74485
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998	74486
5R2	600-608	Medicaid-Nursing Facilities	\$	144,829,224	\$	148,314,982	74487
5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960	74488
5U3	600-654	Health Care Services Administration	\$	10,115,870	\$	15,474,709	74489
5U6	600-663	Children and Family Support	\$	4,929,717	\$	4,929,717	74490
5Z9	600-672	TANF Quality Control Reinvestments	\$	647,409	\$	688,421	74491
651	600-649	Hospital Care Assurance Program Fund	\$	231,893,404	\$	231,893,404	74492
TOTAL SSR State Special Revenue							74493
Fund Group			\$	1,415,893,936	\$	1,215,098,044	74494
Agency Fund Group							74495
192	600-646	Support Intercept - Federal	\$	110,000,000	\$	110,000,000	74496
5B6	600-601	Food Stamp Intercept	\$	2,000,000	\$	2,000,000	74497
583	600-642	Support Intercept - State	\$	16,000,000	\$	16,000,000	74498

TOTAL AGY Agency Fund Group	\$	128,000,000	\$	128,000,000	74499
Holding Account Redistribution Fund Group					74500
R12 600-643 Refunds and Audit	\$	3,600,000	\$	3,600,000	74501
Settlements					
R13 600-644 Forgery Collections	\$	10,000	\$	10,000	74502
TOTAL 090 Holding Account	\$	3,610,000	\$	3,610,000	74503
Redistribution Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	7,406,634,383	\$	7,417,683,660	74504

Section 206.66.03. APPROPRIATION ITEM RESTRUCTURING 74506

(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from appropriation items 600-321, Support Services, and 600-416, Computer Projects, to any other General Revenue Fund appropriation items in Section 312.03 of this act. If the plan is approved by the Office of Budget and Management, the Director of Budget and Management shall transfer appropriations as requested in the plan. Dollars spent pursuant to appropriations transferred in accordance with this division shall be for the same purposes for which the original appropriations were made.

(C) In fiscal year 2007, the Department of Job and Family Services, with the approval of the Office of Budget and Management, shall utilize a method for determining the payments from applicable appropriation items into the Support Services State Operating Fund (Fund 230). The method shall contain characteristics of administrative ease and uniform application. Payments to the Support Services State Operating Fund (Fund 230) shall be made by intrastate transfer voucher. Amounts transferred in accordance with this division are hereby appropriated to appropriation item 600-661, Support Services State Operating (Fund 230).

Section 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

Of the foregoing appropriation item 600-321, Support Services, up to \$312,500 per fiscal year may be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.

Section 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE PAYMENTS

The Department of Job and Family Services shall use a portion of the moneys appropriated for the TANF program in appropriation items 600-410, TANF State; 600-658, Child Support Collections; and 600-689, TANF Block Grant, to increase the cash assistance provided to recipients of benefits under the TANF Ohio Works First program by up to 10 per cent as compared to the cash assistance provided prior to July 1, 2005. The increased TANF cash assistance benefit shall be effective October 1, 2005.

Section 206.66.12. OHIO'S BEST RX START-UP COSTS

An amount equal to the remaining balance in appropriation

item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2005 74558
is hereby appropriated for fiscal year 2006 into appropriation 74559
item 600-440, Ohio's Best Rx Start-Up Costs. An amount equal to 74560
the remaining unencumbered balance in appropriation item 600-440, 74561
Ohio's Best Rx Start-Up Costs, from fiscal year 2006 is hereby 74562
appropriated for fiscal year 2007 into appropriation item 600-440, 74563
Ohio's Best Rx Start-up Costs. The appropriation item 600-440, 74564
Ohio's Best Rx Start-Up Costs, shall be used by the Department of 74565
Job and Family Services to pay for the administrative and 74566
operational expenses for the Ohio's Best Rx Program in accordance 74567
with Chapter 5110. of the Revised Code, including costs associated 74568
with the duties assigned by the Department to the Ohio's Best Rx 74569
Program Administrator and for making payments to participating 74570
terminal distributors until sufficient cash exists to make 74571
payments from the accounts created in sections 5110.32 and 5110.33 74572
of the Revised Code. Of appropriation item 600-440, Ohio's Best Rx 74573
Start-Up Costs, not more than \$750,000 per fiscal year may be used 74574
by the department for administrative and operational costs, 74575
excluding outreach, that are not associated with the Ohio's Best 74576
Rx Program Administrator or the payments to participating terminal 74577
distributors. 74578

If the Director of Job and Family Services estimates that the 74579
appropriation is insufficient to fully cover start-up costs, the 74580
Director shall, in consultation with the Director of Budget and 74581
Management, submit a letter to the Governor, President of the 74582
Senate, Speaker of the House of Representatives, and the minority 74583
leaders of the Senate and House of Representatives. The letter 74584
shall declare the additional appropriation estimated to be needed 74585
and shall show a breakdown of how the additional appropriation 74586
will be used. The Director of Job and Family Services shall obtain 74587
the approval of the Controlling Board for any supplemental 74588
appropriation, if required. The amount approved by the Controlling 74589

Board is hereby appropriated. The use of state funds for program 74590
costs as provided in this section shall in no way obligate the 74591
state to fund further program costs, as the program is a discount 74592
program, not an entitlement program. 74593

OHIO'S BEST RX ADMINISTRATION 74594

The foregoing appropriation item 600-673, Ohio's Best Rx 74595
Administration, shall be used on an ongoing basis to cover 74596
expenses associated with the Ohio's Best Rx Program defined in 74597
section 5110.33 of the Revised Code. If receipts to the fund 74598
exceed the appropriated amount, the Director of Job and Family 74599
Services may request that the Director of Budget and Management 74600
increase the appropriation of this fund. Upon approval from the 74601
Director of Budget and Management, the additional amounts are 74602
hereby appropriated. 74603

Section 206.66.15. PUBLIC ASSISTANCE RECONCILIATION 74604

The Director of Job and Family Services may transfer, by 74605
intrastate transfer voucher, from GRF appropriation item 600-442, 74606
Public Assistance Reconciliation, up to \$30,000,000 in fiscal year 74607
2006 and up to \$30,000,000 in fiscal year 2007, to the Public 74608
Assistance Reconciliation Fund (Fund 5AX), to be used by the 74609
Department of Job and Family Services to reimburse Ohio's federal 74610
TANF block grant according to the process agreed to by the 74611
Department and the federal government. Such amounts are hereby 74612
appropriated. 74613

Section 206.66.21. TANF TRANSFERS 74614

(A) Notwithstanding any provision of law to the contrary, 74615
through June 30, 2007, if the Director of Budget and Management 74616
determines that the estimated ending fund balance of the General 74617
Revenue Fund will be greater than the amounts assumed in this act 74618
for either fiscal year, the director may transfer the excess 74619

balance, up to a total of \$96,000,000 to Fund 5AX, Public
Assistance Reconciliation Fund, to pay the state's outstanding
TANF liability to the federal government. Upon transfer, these
amounts are hereby appropriated. This division does not apply to
division (A) of Section 312.09, Budget Stabilization Fund
Transfers, of this act.

(B) In executing division (A) of this section and division
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is
intended that these divisions be applied and construed so that
both of the transfers authorized under these divisions may be made
through June 30, 2007.

Section 206.66.27. FISCAL YEAR 2006 AND FISCAL YEAR 2007
MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"2003 cost report" means a complete and adequate Medicaid
cost report covering calendar year 2003 filed with the Department
of Job and Family Services under section 5111.23 of the Revised
Code.

"Nursing facility" has the same meaning as in section 5111.20
of the Revised Code.

"Nursing facility services" means nursing facility services
covered by the Medicaid program that a nursing facility provides
to a resident of the nursing facility who is a Medicaid recipient
eligible for Medicaid-covered nursing facility services.

(B) Except as provided in division (C) of this section, a
nursing facility that has a valid Medicaid provider agreement on
June 30, 2005, and a valid Medicaid provider agreement for fiscal
years 2006 and 2007 shall be paid, for nursing facility services
the nursing facility provides during fiscal years 2006 and 2007,
the rate the nursing facility is paid for providing nursing

facility services on June 30, 2005. 74650

(C) If a nursing facility undergoes a change of provider 74651
during fiscal year 2006 or 2007, the nursing facility shall be 74652
paid, for nursing facility services the nursing facility provides 74653
during the period beginning on the effective date of the change of 74654
provider and ending June 30, 2007, the rate paid to the previous 74655
provider for nursing facility services that the previous provider 74656
provided on the day immediately before the effective date of the 74657
change of provider. 74658

(D) If, during fiscal year 2006 or 2007, a nursing facility 74659
obtains certification as a nursing facility from the Director of 74660
Health and begins participation in the Medicaid program, the 74661
nursing facility shall be paid, for nursing facility services the 74662
nursing facility provides during the period beginning on the date 74663
the nursing facility begins participation in the Medicaid program 74664
and ending June 30, 2007, a rate that is the median of all rates 74665
paid to nursing facilities on July 1, 2006. 74666

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 74667
certified beds are added to a nursing facility with a valid 74668
Medicaid provider agreement for the time that the beds are added, 74669
the nursing facility shall be paid a rate for the new beds that is 74670
the same as the nursing facility's rate for the Medicaid certified 74671
beds that are in the nursing facility on the day before the new 74672
beds are added. 74673

(F) An adjustment necessitated by an audit of a nursing 74674
facility's 2003 cost report may be applied to a rate established 74675
under this section for the nursing facility. 74676

(G) The department of job and family services shall follow 74677
this section, in determining the rate to be paid a nursing 74678
facility under the Medicaid program for nursing facility services 74679
provided during fiscal years 2006 and 2007 notwithstanding 74680

anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code. 74681
74682

Section 206.66.28. FISCAL YEAR 2006 AND FISCAL YEAR 2007 74683
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 74684

(A) As used in this section: 74685

"2003 cost report" means a complete and adequate Medicaid 74686
cost report covering calendar year 2003 filed with the Department 74687
of Job and Family Services under section 5111.23 of the Revised 74688
Code. 74689

"Intermediate care facility for the mentally retarded" has 74690
the same meaning as in section 5111.20 of the Revised Code. 74691

"ICF/MR services" means intermediate care facility for the 74692
mentally retarded services covered by the Medicaid program that an 74693
intermediate care facility for the mentally retarded provides to a 74694
resident of the facility who is a Medicaid recipient eligible for 74695
Medicaid-covered intermediate care facility for the mentally 74696
retarded services. 74697

(B) Except as provided in division (C) of this section, an 74698
intermediate care facility for the mentally retarded that has a 74699
valid Medicaid provider agreement on June 30, 2005, and a valid 74700
Medicaid provider agreement for fiscal years 2006 and 2007 shall 74701
be paid, for ICF/MR services the facility provides during fiscal 74702
years 2006 and 2007, the rate the facility is paid for providing 74703
ICF/MR services on June 30, 2005. 74704

(C) If an intermediate care facility for the mentally 74705
retarded undergoes a change of provider during fiscal year 2006 or 74706
2007, the facility shall be paid, for ICF/MR services the facility 74707
provides during the period beginning on the effective date of the 74708
change of provider and ending June 30, 2007, the rate paid to the 74709
previous provider for ICF/MR services that the previous provider 74710

provided on the day immediately before the effective date of the 74711
change of provider. 74712

(D) If, during fiscal year 2006 or 2007, an intermediate care 74713
facility for the mentally retarded obtains certification as an 74714
intermediate care facility for the mentally retarded from the 74715
Director of Health and begins participation in the Medicaid 74716
program, the facility shall be paid, for ICF/MR services the 74717
facility provides during the period beginning on the date the 74718
facility begins participation in the Medicaid program and ending 74719
June 30, 2007, a rate that is the median of all rates paid to 74720
intermediate care facilities for the mentally retarded on July 1, 74721
2006. 74722

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 74723
certified beds are added to an intermediate care facility for the 74724
mentally retarded with a valid Medicaid provider agreement for the 74725
time that the beds are added, the facility shall be paid a rate 74726
for the new beds that is the same as the facility's rate for the 74727
Medicaid certified beds that are in the facility on the day before 74728
the new beds are added. 74729

(F) An adjustment necessitated by an audit of an intermediate 74730
care facility for the mentally retarded's 2003 cost report may be 74731
applied to a rate established under this section for the facility. 74732

(G) The department of job and family services shall follow 74733
this section in determining the rate to be paid an intermediate 74734
care facility for the mentally retarded under the Medicaid program 74735
for ICF/MR services provided during fiscal years 2006 and 2007 74736
notwithstanding anything to the contrary in sections 5111.20 to 74737
5111.33 of the Revised Code. 74738

Section 206.66.30. ICF/MR STUDY COUNCIL 74739

(A) As used in this section: 74740

(1) "Intermediate care facility for the mentally retarded" or "ICF/MR" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(B) There is hereby created the Intermediate Care Facility for the Mentally Retarded Waiver Study Council. The Council shall consist of the following members:

(1) One member of the House of Representatives appointed by the Speaker of the House of Representatives and one member of the Senate appointed by the President of the Senate. The Speaker and the President jointly shall appoint one of the members to serve as chair of the Council.

(2) The Director of Job and Family Services or the Director's designee;

(3) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;

(4) One representative of each of the following organizations, appointed by the organization:

(a) Advocacy and Protective Services, Incorporated;

(b) The Arc of Ohio;

(c) The Ohio League for the Mentally Retarded;

(d) People First of Ohio;

(e) The Ohio Association of County Boards of Mental Retardation and Developmental Disabilities;

(f) The Ohio Provider Resource Association;

(g) The Ohio Health Care Association.

Members of the Council shall receive no compensation for

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serving on the Council.

74770
(C) The Council shall study the use of a Medicaid waiver
74771
component to replace ICF/MR services. The study shall address all
74772
of the following:

74773
(1) The services that would be made available to individuals
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under the waiver component, compared to the services available
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under ICF/MR services;

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(2) The sources of funding for services to be made available
74777
under the waiver component and the adequacy of those funding
74778
sources, compared to funding available for ICF/MR services;

74779
(3) The impact of converting the ICF/MR service into a
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Medicaid waiver component on the individuals served, their
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families and guardians, county boards of mental retardation and
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developmental disabilities, and providers of services;

74783
(4) The impact of converting the ICF/MR service into a
74784
Medicaid waiver component on the ability of individuals and their
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families and guardians to choose services and residential settings
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that they consider appropriate to meet their needs;

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(5) The advisability of including developmental centers
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operated by the Department of Mental Retardation and Developmental
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Disabilities in the waiver component;

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(6) The methodology for reimbursing providers of services
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under the waiver component and how that methodology compares to
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the methodology for reimbursing ICF/MR services;

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(7) The cost-effectiveness of the waiver component, including
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administrative costs and federal funding, compared to the ICF/MR
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service;

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(8) The most effective administrative structure for the
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waiver component;

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(9) Any other matters the Council considers appropriate.

(D) Not later than January 1, 2007, the Council shall submit a report of its findings and its recommendation on the question of whether the state should submit a request for approval of a waiver to the United States Secretary of Health and Human Services. If the Council recommends that the state request approval of a waiver, the Council shall include in its report detailed recommendations addressing all of the matters listed in division (C) of this section. The Council shall submit its report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate.

***Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM**

(A) As used in this section, "Assisted Living Program" has the same meaning as in section 5111.89 of the Revised Code.

(B) After the Department of Job and Family Services enters into a contract with the Department of Aging under section 5111.91 of the Revised Code for the Department of Aging to administer the Assisted Living Program, the Director of Job and Family Services shall quarterly certify to the Director of Budget and Management the estimated costs of the Assisted Living Program for the upcoming quarter. The estimate shall include the state and federal share of the costs. On receipt of the certified estimated costs for an upcoming quarter, the Director of Budget and Management shall do all of the following:

(1) Transfer the state share of the amount of the estimated costs from GRF appropriation item 450-525, Health Care/Medicaid, to GRF appropriation item 490-422, Assisted Living;

(2) Transfer the federal share of the amount of the estimated costs from GRF appropriation item 450-525, Health Care/Medicaid, to Fund 3C4, appropriation item 490-622, Assisted Living -

Federal;	74829
(3) Increase the appropriation in JFS Fund 3G5, appropriation	74830
item 600-655, Interagency Reimbursement, by the federal share of	74831
the amount of the estimated costs.	74832
(C) The funds that the Director of Budget and Management	74833
transfers and increases under this section are hereby	74834
appropriated.	74835
*Section 206.66.37. Section 206.66.36 of this act takes	74836
effect October 1, 2005.	74837
Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS	74838
The Director of Job and Family Services shall, not later than	74839
ninety days after the effective date of this section, submit to	74840
the United States Secretary of Health and Human Services an	74841
amendment to the state Medicaid plan to reduce to ninety per cent	74842
of the federal poverty guidelines the amount specified in division	74843
(A)(2) of section 5111.019 of the Revised Code as it existed	74844
immediately prior to the amendment made by this act. The reduction	74845
shall be implemented not earlier than ninety days after the	74846
effective date of this section and not later than the effective	74847
date of federal approval.	74848
Section 206.66.42. TERMINATION OF THE DISABILITY MEDICAL	74849
ASSISTANCE PROGRAM	74850
(A) The Department of Job and Family Services shall terminate	74851
the Disability Medical Assistance Program effective October 1,	74852
2005. All rules, standards, guidelines, or orders adopted or	74853
issued by the Director of Job and Family Services to govern the	74854
Disability Medical Assistance Program before its termination shall	74855
remain in effect on and after October 1, 2005, for the following	74856
purposes:	74857

(1) To establish the legal obligations of the Department for claims arising from the Program; 74858
74859

(2) To determine an individual's previous eligibility for the Program; 74860
74861

(3) To determine the validity of a claim for services under the Program; 74862
74863

(4) To recover erroneous payments, as defined in section 5115.23 of the Revised Code, made before October 1, 2005. 74864
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(B) The Department may use funds appropriated to it to satisfy Program claims or contingent claims existing before October 1, 2005. The Department shall not pay claims for services rendered on or after October 1, 2005. 74866
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(C) The Department shall pay a claim for services rendered by a medical provider to a Disability Medical Assistance Program recipient before October 1, 2005, only if the claim is received by the Department not later than April 1, 2006. 74870
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(D) A judge or other person designated to make a decision in a state hearing, administrative appeal, or judicial proceeding initiated under section 5101.35 of the Revised Code may adjudicate an appeal of a determination made by the Department under the Program before October 1, 2005. No person may adjudicate an appeal of a determination made by the Department under the Program on or after October 1, 2005. 74874
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(E) Notwithstanding the termination of the Disability Medical Assistance Program, the following remain effective on and after October 1, 2005: 74881
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74883

(1) As described in section 5101.58 of the Revised Code, the Department's and a county's right of recovery against the liability of a third party for the cost of medical services and care; 74884
74885
74886
74887

(2) As described in section 5101.59 of the Revised Code, the assignment of a Program recipient's right to medical support made by court or administrative order or payments from a third party.

(F) The Department may take reasonable steps to inform Program recipients about the termination of the Program. A county department of job and family services shall take action with respect to these activities when requested by the Department.

(G) An action taken under division (F) of this section shall not be the basis for requiring the Department to extend the Program or to approve or extend a person's eligibility for the Program on or after October 1, 2005.

(H) The Director may adopt rules in accordance with section 111.15 of the Revised Code to implement this section.

Section 206.66.43. MEDICAID CARE MANAGEMENT WORKING GROUP

(A) The Department of Job and Family Services shall establish the Medicaid Care Management Working Group composed of the following individuals:

(1) Four individuals appointed by the Department to represent Medicaid care management plans;

(2) Four individuals appointed by the Department to represent major health care and behavioral care trade associations;

(3) Two individuals appointed by the Department to represent consumer advocates;

(4) An individual appointed by the Department to represent county boards job and family services;

(5) The Director of Job and Family Services or the Director's designee;

(6) The Director of Health or the Director's designee;

(7) The Superintendent of Insurance or the Superintendent's designee;	74916 74917
(8) The Director of Aging or the Director's designee;	74918
(9) The Director of Mental Health or the Director's designee;	74919
(10) The Director of Alcohol and Drug Addiction Services or the Director's designee;	74920 74921
(11) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;	74922 74923
(12) The Director of the Rehabilitation Services Commission.	74924
(B) The Medicaid Care Management Working Group shall develop guidelines to govern managed care contracts for services provided under the Medicaid program. In developing the guidelines, the Working Group shall do all of the following:	74925 74926 74927 74928
(1) Incorporate best practice standards used in current managed care programs to maximize patient and provider satisfaction and best practice standards for maintaining quality of care and cost effectiveness in a managed care setting;	74929 74930 74931 74932
(2) Consider how best to increase consistency and facilitate care management expansion;	74933 74934
(3) Provide for the coordination of regulatory relationships, including improved methods to resolve contract issues among participants in managed care systems that provide services under the Medicaid program;	74935 74936 74937 74938
(4) Consider the feasibility of establishing an incentive program under which a managed care organization participating in the Medicaid Program could receive financial incentives for positive health care outcomes. In considering such a program, the Working Group shall determine specific measures of positive health care outcomes for high-risk populations, identify outcomes that constitute positive health care outcomes, and recommend ways to	74939 74940 74941 74942 74943 74944 74945

fund the program from the Medicaid Program's managed care budget.	74946
Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES	74947
For fiscal years 2006 and 2007, the Medicaid program shall	74948
cover dental services as follows:	74949
(A) For Medicaid recipients under twenty-one years of age, in	74950
at least the amount, duration, and scope that it did immediately	74951
before the effective date of this section under rules adopted	74952
under section 5111.02 of the Revised Code governing Medicaid	74953
coverage of dental services for such recipients;	74954
(B) For Medicaid recipients twenty-one years of age or older,	74955
in an amount, duration, and scope specified in rules that the	74956
Director of Job and Family Services shall adopt under section	74957
5111.02 of the Revised Code.	74958
Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES	74959
For fiscal years 2006 and 2007, the Medicaid program shall	74960
cover vision services in at least the amount, duration, and scope	74961
that the program covers such services immediately prior to the	74962
effective date of this section.	74963
Section 206.66.46. (A) The Department of Job and Family	74964
Services shall do all of the following:	74965
(1) Assess the feasibility of an interagency agreement	74966
between the Department and the Rehabilitation Services Commission	74967
whereby the Commission would perform disability determinations for	74968
programs and services offered by the Department or a county	74969
department of job and family services in which disability is an	74970
eligibility requirement;	74971
(2) Estimate potential cost-savings and other advantages, as	74972
well as any potential disadvantages, that might result from the	74973

interagency agreement;	74974
(3) Determine how the interagency agreement could be implemented, including an estimate of the approximate time needed to implement it.	74975 74976 74977
(B) Not later than six months after the effective date of this section, the Department shall prepare and submit a written report of its findings to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate.	74978 74979 74980 74981 74982
Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING ESTATE RECOVERY	74983 74984
The Director of Job and Family Services shall submit a state Medicaid plan amendment to the United States Secretary of Health and Human Services as necessary for the implementation of the amendments by this act to sections 5111.11 and 5111.111 of the Revised Code.	74985 74986 74987 74988 74989
Section 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 AND 2007	74990 74991
The auditor of state may, during fiscal years 2006 and 2007, conduct a single performance audit of the medicaid program, as defined in section 5111.01 of the Revised Code, to determine ways of reducing or eliminating fraud, waste, and abuse in the program, making the program more efficient, and enhancing the program's results. An audit conducted under this section shall be conducted in accordance with generally accepted government auditing standards.	74992 74993 74994 74995 74996 74997 74998 74999
Section 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL EDUCATION COSTS	75000 75001

The Director of Job and Family Service shall submit to the 75002
United States Secretary of Health and Human Services an amendment 75003
to the state Medicaid plan to implement section 5111.191 of the 75004
Revised Code. The Department shall implement that section upon the 75005
Secretary's approval of the amendment. 75006

Section 206.66.52. (A) There is hereby created the Medicaid 75007
Transition Council to oversee the restructuring of Ohio's Medicaid 75008
program. The Council shall be composed of the following: 75009

(1) The Director of Job and Family Services or the Director's 75010
designee; 75011

(2) The Director of Aging or the Director's designee; 75012

(3) The Director of Drug and Alcohol Addiction Services or 75013
the Director's designee; 75014

(4) The Director of Health or the Director's designee; 75015

(5) The Director of Mental Health or the Director's designee; 75016

(6) The Director of Mental Retardation and Developmental 75017
Disabilities or the Director's designee; 75018

(7) The Director of Budget and Management or the Director's 75019
designee; 75020

(8) The State Chief Information Officer or the Officer's 75021
designee; 75022

(9) An individual appointed by the Speaker of the House of 75023
Representatives; 75024

(10) An individual appointed by the President of the Senate. 75025

(B) The Council shall do all of the following: 75026

(1) Initiate, guide, and oversee the implementation of 75027
measures recommended by the Ohio Commission to Reform Medicaid; 75028

(2) Devise a centralized financing function to coordinate the 75029

activities of all executive agencies that deliver Medicaid services;	75030 75031
(3) With regard to the future creation of a Medicaid department, all of the following:	75032 75033
(a) Design the scope and structure of the department;	75034
(b) Develop a business plan to direct the transition of the Medicaid program from the Department of Job and Family Services to the new department;	75035 75036 75037
(c) Secure resources required to implement the business plan described in division (B)(3)(b) of this section.	75038 75039
(4) By not later than December 31, 2006, submit to the Governor a written report of the Council's findings.	75040 75041
Section 206.66.57. ODJFS FUNDS	75042
AGENCY FUND GROUP	75043
The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family Services. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.	75044 75045 75046 75047 75048 75049
Section 206.66.60. EMPLOYER SURCHARGE	75050
The surcharge and the interest on the surcharge amounts due for calendar years 1988, 1989, and 1990 as required by Am. Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 118th General Assembly, and section 4141.251 of the Revised Code as it existed prior to its repeal by Sub. H.B. 478 of the 122nd General Assembly, again shall be assessed and collected by, accounted for, and made available to the Department of Job and	75051 75052 75053 75054 75055 75056 75057

Family Services in the same manner as set forth in section 75058
4141.251 of the Revised Code as it existed prior to its repeal by 75059
Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the 75060
repeal of the surcharge for calendar years after 1990, pursuant to 75061
Sub. H.B. 478 of the 122nd General Assembly, except that amounts 75062
received by the Director on or after July 1, 2001, shall be 75063
deposited into the Unemployment Compensation Special 75064
Administrative Fund (Fund 4A9) established pursuant to section 75065
4141.11 of the Revised Code. 75066

Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF 75067
AGING 75068

The Department of Job and Family Services shall transfer, 75069
through intrastate transfer vouchers, cash from Fund 4J5, Home and 75070
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in 75071
the Department of Aging. The sum of the transfers shall be 75072
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 75073
2007. The transfer may occur on a quarterly basis or on a schedule 75074
developed and agreed to by both departments. 75075

Section 206.66.66. PASSPORT EVALUATION 75076

(A) There is hereby created the PASSPORT Evaluation Panel to 75077
oversee the performance of an evaluation of the PASSPORT Program 75078
conducted by an independent contractor. The Panel shall be 75079
composed of the following members: 75080

(1) The Director of Job and Family Services or the Director's 75081
designee; 75082

(2) The Director of Aging or the Director's designee; 75083

(3) A representative of the Central Ohio Area Agency on 75084
Aging, appointed by the Agency; 75085

(4) A representative of PASSPORT providers, appointed by the 75086

Director of Aging;	75087
(5) A representative of the Ohio Academy of Nursing Homes, appointed by the Academy;	75088 75089
(6) A representative of the Ohio Health Care Association, appointed by the Association;	75090 75091
(7) A representative of the Association for Ohio Philanthropic Homes and Housing for the Aging, appointed by the Association;	75092 75093 75094
(8) A representative of Scripps Gerontology Center at Miami University, appointed by the Center.	75095 75096
Panel members shall serve without compensation. The Department of Aging shall provide assistance to the PASSPORT Evaluation Panel, including support services and meeting space. The Panel shall convene not later than sixty days after the effective date of this section.	75097 75098 75099 75100 75101
(B) The Panel, with the Department of Job and Family Services, shall do all of the following:	75102 75103
(1) Establish criteria to be used in selecting an independent contractor to evaluate the PASSPORT Program. The criteria shall specify that the independent contractor must not be affiliated with any state agency.	75104 75105 75106 75107
(2) In accordance with the request for proposal process administered by the Department of Administrative Services, accept and evaluate bids from potential contractors;	75108 75109 75110
(3) Select to evaluate the PASSPORT Program an independent contractor that meets the criteria established by the Panel and the Department.	75111 75112 75113
(C) The independent contractor selected by the PASSPORT Evaluation Panel shall, in conducting the evaluation of the PASSPORT Program, do all of the following:	75114 75115 75116

(1) Evaluate the types of services provided under the program	75117
and determine the amount expended for each service;	75118
(2) Sample audit provider records and billing for services to	75119
determine their accuracy;	75120
(3) Determine elements of the program that may be vulnerable	75121
to fraud;	75122
(4) Evaluate the cost-effectiveness of services provided	75123
under the program;	75124
(5) Evaluate the population served and the appropriateness of	75125
the program for that population;	75126
(6) Evaluate past and present waiting lists for services and	75127
determine the impact outcomes of the delay in services;	75128
(7) Evaluate program outcomes to determine the program's	75129
effectiveness in preventing nursing home admissions;	75130
(8) Recommend improvements to correct any deficiencies found	75131
during the evaluation process, including methods to achieve	75132
greater effectiveness in attaining program objectives;	75133
(9) Any additional action requested by the PASSPORT	75134
Evaluation Panel.	75135
The independent contractor shall issue to the Panel quarterly	75136
reports and, by not later than May 15, 2007, a final report, of	75137
its findings. By not later than June 30, 2007, the PASSPORT	75138
Evaluation Panel shall approve a final report.	75139
Notwithstanding any limitations in sections 3721.51 and	75140
3721.56 of the Revised Code, in each fiscal year, cash from Fund	75141
4J5, Home and Community-Based Services for the Aged, in excess of	75142
the amounts needed for the transfers may be used by the Department	75143
of Job and Family Services for the following purposes: (A) up to	75144
\$1.0 million in each fiscal year to fund the state share of audits	75145
of Medicaid cost reports filed with the Department of Job and	75146

Family Services by nursing facilities and intermediate care 75147
facilities for the mentally retarded; and (B) up to \$350,000 in 75148
fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 75149
one-time transitional benefits under the Ohio Access Success 75150
Project that the Director of Job and Family Services may establish 75151
under section 5111.88 of the Revised Code. 75152

Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD 75153
BANKS 75154

As used in this section, "federal poverty guidelines" has the 75155
same meaning as in section 5101.46 of the Revised Code. 75156

Notwithstanding section 5101.46 of the Revised Code, and 75157
prior to making any allocation to county departments of job and 75158
family services, the Department of Job and Family Services shall 75159
provide \$5,500,000 in each fiscal year from the foregoing 75160
appropriation item 600-620, Social Services Block Grant, for use 75161
in funding a grant agreement with the Ohio Association of Second 75162
Harvest Food Banks. The Department shall enter into a grant 75163
agreement with the Ohio Association of Second Harvest Food Banks 75164
to reimburse it for costs incurred in the purchase of food 75165
products and the distribution of those food products to agencies 75166
participating in the emergency food distribution program. 75167
Notwithstanding section 5101.46 of the Revised Code, the grant may 75168
permit the Ohio Association of Second Harvest Food Banks to use up 75169
to 5 per cent of the annual funding for administrative costs. The 75170
Department may advance funds to the grantee under section 5101.10 75171
of the Revised Code. 75172

Prior to entering into the grant agreement, the Ohio 75173
Association of Second Harvest Food Banks shall submit to the 75174
Department for approval a plan for the distribution of the food 75175
products to local food distribution agencies. If the plan meets 75176
the requirements and conditions established by the Department, the 75177

plan shall be incorporated into the grant agreement. The grant 75178
agreement shall also require the Ohio Association of Second 75179
Harvest Food Banks to ensure that local agencies will limit 75180
participation of individuals and families who receive any of the 75181
food products purchased with these funds to those who have an 75182
income at or below 200 per cent of the federal poverty guidelines. 75183
The Department and the Ohio Association of Second Harvest Food 75184
Banks shall agree on reporting requirements to be incorporated 75185
into the grant agreement, including a statement of expected 75186
performance outcomes from the Ohio Association of Second Harvest 75187
Food Banks and a requirement for their evaluation of their success 75188
in achieving those outcomes. 75189

Section 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF 75190
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 75191

The Department of Job and Family Services shall transfer, 75192
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 75193
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 75194
in the Department of Mental Retardation and Developmental 75195
Disabilities. The amount transferred shall equal \$12,000,000 in 75196
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 75197
may occur on a quarterly basis or on a schedule developed and 75198
agreed to by both departments. 75199

Section 206.66.75. FUNDING FOR HABILITATIVE SERVICES 75200

Notwithstanding any limitations contained in sections 5112.31 75201
and 5112.37 of the Revised Code, in each fiscal year, cash from 75202
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 75203
for transfers to Fund 4K8, Home and Community-Based Services, in 75204
the Department of Mental Retardation and Developmental 75205
Disabilities, may be used by the Department of Job and Family 75206
Services to cover costs of care provided to participants in a 75207

waiver with an ICF/MR level of care requirement administered by 75208
the Department of Job and Family Services. 75209

Section 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM 75210

(A) As used in this section, "habilitation center services" 75211
has the same meaning as in former section 5111.041 of the Revised 75212
Code as that section existed on June 30, 2005. 75213

(B) The Director of Job and Family Services may adopt rules 75214
under section 111.15 of the Revised Code as necessary to terminate 75215
the community alternative funding system on July 1, 2005. 75216

(C) The Department of Job and Family Services may inform 75217
individuals who received habilitation center services under the 75218
community alternative funding system on June 30, 2005, and such 75219
individuals' representatives about alternative services that may 75220
be available for the individuals. The Department may require 75221
county departments of job and family services to provide such 75222
information to the individuals and their representatives. 75223

(D) Habilitation center services provided before July 1, 75224
2005, are subject to the laws, rules, standards, guidelines, and 75225
orders regarding habilitation center services that were in effect 75226
at the time the services were provided. This includes such laws, 75227
rules, standards, guidelines, and orders regarding the 75228
responsibility for the nonfederal share of the services, the fee 75229
assessed under division (D) of section 5123.041 of the Revised 75230
Code as that section existed on the day the services were 75231
provided, cost reports, audits, and the recovery of erroneous 75232
payments. 75233

(E) The Department of Job and Family Services may use funds 75234
appropriated to the Department for the purpose of habilitation 75235
center services to satisfy a claim or contingent claim for 75236
habilitation center services provided before July 1, 2005, if the 75237

Department receives the claim or contingent claim before July 1, 75238
2006. The Department has no liability to satisfy either of the 75239
following: 75240

(1) A claim for habilitation center services provided before 75241
July 1, 2005, if the Department receives the claim on or after 75242
July 1, 2006. 75243

(2) A claim for habilitation center services provided on or 75244
after July 1, 2005. 75245

(F) To the extent authorized by section 5101.35 of the 75246
Revised Code, an individual may initiate or continue a state 75247
hearing, administrative appeal, or appeal to a court of common 75248
pleas regarding a decision or order concerning habilitation center 75249
services that were available before July 1, 2005. A decision 75250
resulting from a state hearing, administrative appeal, or appeal 75251
to a court of common pleas may not extend an individual's 75252
eligibility for habilitation center services beyond June 30, 2005. 75253
No individual may utilize section 5101.35 of the Revised Code to 75254
contest the July 1, 2005, termination of the community alternative 75255
funding system. 75256

(G) Neither of the following are abrogated by the termination 75257
of the community alternative funding system: 75258

(1) The right of recovery given to the Department of Job and 75259
Family Services or a county department of job and family services 75260
under section 5101.58 of the Revised Code for habilitation center 75261
services provided before July 1, 2005. 75262

(2) The right to medical support or payments from a third 75263
party that is assigned to the Department under section 5101.59 of 75264
the Revised Code for habilitation center services provided before 75265
July 1, 2005. 75266

Section 206.66.84. CHILDREN'S TRUST FUND 75267

Notwithstanding sections 3109.13 to 3109.18 of the Revised Code, in fiscal year 2006, the Director of Budget and Management shall transfer \$1,500,000 cash from the Children's Trust Fund (Fund 198 in the Department of Job and Family Services) to the Partnerships for Success Fund (Fund 5BH in the Department of Youth Services). On or before January 1, 2007, the Director of Budget and Management shall transfer to the Children's Trust Fund (Fund 198) any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH).

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 206.66.87. HEALTH CARE SERVICES ADMINISTRATION

The foregoing appropriation item 600-654, Health Care Services Administration, shall be used by the Department of Job and Family Services for costs associated with the administration of the Medicaid program.

Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Job and Family Services during fiscal year 2006 and fiscal year 2007 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 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE

The foregoing appropriation item 600-658, Child Support Collections, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of Pub. L. No. 104-193. Once the state is assured that it will meet the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600-658, Child Support Collections, to support public assistance activities.

Section 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE 75305

The foregoing appropriation item 600-671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to Fund 5C9 revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies, and all funds the Department recovers because the benefits a person received under the disability medical assistance program established in section 5115.10 of the Revised Code were determined to be covered by the medical assistance program established under Chapter 5111. of the Revised Code.

Section 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE DEPARTMENT OF MENTAL HEALTH 75317
75318

The Department of Job and Family Services shall transfer, through intrastate transfer voucher, cash from Fund 5C9, Medicaid Program Support, to the Department of Mental Health's Fund 4X5, OhioCare, in accordance with an interagency agreement that delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services.

Section 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS 75326

All unexpended funds remaining at the end of fiscal year 2005 75327
that were appropriated and made available to the state under 75328
section 903(d) of the Social Security Act, as amended, in the 75329
foregoing appropriation item 600-678, Federal Unemployment 75330
Programs (Fund 3V4), are hereby appropriated to the Department of 75331
Job and Family Services. Upon the request of the Director of Job 75332
and Family Services, the Director of Budget and Management shall 75333
increase the appropriation for fiscal year 2006 by the amount 75334
remaining unspent from the fiscal year 2005 appropriation and 75335
shall increase the appropriation for fiscal year 2007 by the 75336
amount remaining unspent from the fiscal year 2006 appropriation. 75337
The appropriation shall be used under the direction of the 75338
Department of Job and Family Services to pay for administrative 75339
activities for the Unemployment Insurance Program, employment 75340
services, and other allowable expenditures under section 903(d) of 75341
the Social Security Act, as amended. 75342

The amounts obligated pursuant to this section shall not 75343
exceed at any time the amount by which the aggregate of the 75344
amounts transferred to the account of the state under section 75345
903(d) of the Social Security Act, as amended, exceeds the 75346
aggregate of the amounts obligated for administration and paid out 75347
for benefits and required by law to be charged against the amounts 75348
transferred to the account of the state. 75349

Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT 75350

The Department of Job and Family Services may use 75351
appropriations from appropriation item 600-688, Workforce 75352
Investment Act, to provide financial assistance for workforce 75353
development activities included in a grant agreement entered into 75354
by the department in accordance with section 5101.20 of the 75355

Revised Code.	75356
Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER	75357
Of the foregoing appropriation item 600-689, TANF Block Grant, \$1 million in each fiscal year shall be allocated to Accountability and Credibility Together (ACT) to continue its welfare diversion program for TANF eligible individuals.	75358 75359 75360 75361
Section 206.67.08. KINSHIP CAREGIVER SUBSIDY PROGRAM	75362
Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), \$10 million per fiscal year shall be used to support the activities of the Kinship Caregiver Subsidy Program created under section 5101.802 of the Revised Code.	75363 75364 75365 75366
Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS	75367
Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), the Department of Job and Family Services shall use \$600,000 in each fiscal year to support expenditures of the Ohio Alliance of Boys and Girls Clubs to provide after-school programs that protect at-risk children and enable youth to become responsible adults. The Ohio Alliance of Boys and Girls Clubs shall provide nutritional meals, snacks, and educational, youth development, and career development services to TANF eligible children participating in programs and activities operated by eligible Boys and Girls Clubs.	75368 75369 75370 75371 75372 75373 75374 75375 75376 75377
The Department 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	75378 75379 75380 75381 75382 75383 75384

incorporated into the grant agreement. 75385

The Ohio Alliance of Boys and Girls Clubs shall return any 75386
fiscal year 2006 funds from this grant remaining unspent on June 75387
30, 2006, to the Ohio Department of Job and Family Services not 75388
later than November 1, 2006. The Ohio Alliance of Boys and Girls 75389
Clubs shall return any fiscal year 2007 funds from this grant 75390
remaining unspent on June 30, 2007, to the Ohio Department of Job 75391
and Family Services not later than November 1, 2007. 75392

Section 206.67.A. CHILD WELFARE TRAINING INITIATIVE 75393

Of the foregoing appropriation item 600-689, TANF Block Grant 75394
(Fund 3V6), \$200,000 per fiscal year shall be provided to the 75395
National Center for Adoption Law and Policy to fund a 75396
multi-disciplinary child welfare training initiative. The 75397
Department of Job and Family Services shall coordinate with the 75398
National Center for Adoption Law and Policy to determine the focus 75399
of the training provided each year and to ensure that the training 75400
is designed to meet one of the four purposes of the Temporary 75401
Assistance to Needy Families program. 75402

***Section 206.67.10. EMPLOYMENT RETENTION INCENTIVE PROGRAM** 75403

(A) As used in this section: 75404

(1) "Assistance group" has the same meaning as in section 75405
5107.02 of the Revised Code. 75406

(2) "Ohio Works First" means the program established under 75407
Chapter 5107. of the Revised Code. 75408

(B) Subject to section 5101.801 of the Revised Code, in 75409
fiscal year 2007 the Department of Job and Family Services may 75410
establish and administer the Employment Retention Incentive 75411
Program under which the Department provides cash payments to 75412
eligible assistance groups. The Department shall use the foregoing 75413

appropriation item 600-689, TANF Block Grant, to fund the program. 75414

To be eligible for the Employment Retention Incentive 75415
Program, an assistance group must meet all of the following 75416
requirements: 75417

(1) The assistance group must apply using an application that 75418
contains all of the information that rules specified in this 75419
section require in accordance with the application process 75420
established in those rules; 75421

(2) The assistance group must have ceased to participate in 75422
Ohio Works First in accordance with rules specified in this 75423
section; 75424

(3) The assistance group must include a member who was 75425
employed during the last month the assistance group participated 75426
in Ohio Works First in accordance with rules specified in this 75427
section; 75428

(4) That member of the assistance group must remain employed 75429
in accordance with rules specified in this section; 75430

(5) The assistance group must meet all other eligibility 75431
requirements established in rules specified in this section. 75432

(C) If the Department establishes the Employment Retention 75433
Incentive Program, the Department shall provide cash payments 75434
under the program in a manner that enables the cash payments to be 75435
excluded from the definition of "assistance" in 45 C.F.R. 75436
260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) 75437
excludes from the definition of assistance. Each county Department 75438
of Job and Family Services shall make eligibility determinations 75439
for the program and perform other administrative duties for the 75440
program in accordance with rules specified in this section. 75441

(D) If the Department establishes the Employment Retention 75442
Incentive Program, the Department shall adopt rules under division 75443

(C) of section 5101.801 of the Revised Code to establish all of the following for the program: 75444
75445

(1) The information that an application for the program must contain; 75446
75447

(2) The application process for the program, including the process to verify eligibility for the program; 75448
75449

(3) The manner in which an assistance group must have ceased to participate in Ohio Works First for the assistance group to qualify for the program; 75450
75451
75452

(4) The manner in which an assistance group member must have been employed during the last month the assistance group participated in Ohio Works First for the assistance group to qualify for the program; 75453
75454
75455
75456

(5) The manner in which an assistance group member must remain employed for the assistance group to qualify for the program; 75457
75458
75459

(6) Other eligibility requirements for the program; 75460

(7) The amounts that eligible assistance groups are to receive as cash payments under the program; 75461
75462

(8) The frequency and duration that eligible assistance groups are to receive cash payments under the program; 75463
75464

(9) Requirements governing county departments' administrative duties regarding the program. 75465
75466

(E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services. 75467
75468
75469
75470

***Section 206.67.11.** Section 206.67.10 of this act takes effect July 1, 2006. 75471
75472

Section 206.67.12. EARLY LEARNING INITIATIVE	75473
(A) As used in this section:	75474
(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).	75475 75476 75477 75478 75479 75480 75481
(2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.	75482 75483 75484 75485
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	75486 75487
(4) "Eligible child" means a child eligible for Title IV-A services whose family income does not exceed one hundred eighty-five per cent of the federal poverty line at application. If the family income of a child receiving early learning services under this section exceeds one hundred ninety-five per cent of the federal poverty line, the child ceases to be eligible for an early learning program.	75488 75489 75490 75491 75492 75493 75494
(5) "Early learning program" means a program for eligible children that is funded with Title IV-A funds and provides Title IV-A services that are both of the following:	75495 75496 75497
(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of Section 206.09.54 of this act;	75498 75499 75500
(b) Child care.	75501

(6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program.

(7) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.

(8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.

(B) The Department of Job and Family Services and the Department of Education shall administer the Early Learning Initiative, established under Section 206.09.54 of this act, in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children.

(C) The Department of Job and Family Services shall do all of the following:

(1) In consultation with the Department of Education, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation of an early learning program on the agency's behalf, to be licensed or certified by the Department of Education under sections 3301.52 to 3301.59 of the Revised Code or by the Department of Job and Family Services under Chapter 5104. of the Revised Code.

(2) Enter into a contract with each early learning agency in accordance with Section 206.09.54 of this act;

(3) Reimburse early learning agencies for Title IV-A services provided to eligible children according to the terms of the contract and the rules adopted under division (C)(4) of this

section; 75532

(4) In consultation with the Department of Education, adopt 75533
rules in accordance with Chapter 119. of the Revised Code to 75534
implement the Early Learning Initiative. The rules shall include 75535
provisions regarding the establishment of co-payments for families 75536
of eligible children whose family income is more than one hundred 75537
sixty-five per cent of the federal poverty line but equal to or 75538
less than one hundred ninety-five per cent of the federal poverty 75539
line. The rules shall exempt from co-payment requirements those 75540
families whose family income is equal to or less than one hundred 75541
sixty-five per cent of the federal poverty line. The rules also 75542
shall include a definition of "weekly attendance rate" for the 75543
purpose of reimbursing early learning agencies. 75544

(5) In consultation with the Department of Education, 75545
establish a caretaker employment eligibility requirement for 75546
participation in the Early Learning Initiative that specifies the 75547
minimum number of hours that the caretaker of the eligible child 75548
must be employed and the time period over which the minimum number 75549
of hours is to be measured. 75550

(D) Each county department of job and family services shall 75551
determine eligibility for Title IV-A services for children seeking 75552
to enroll in an early learning program and shall establish 75553
co-payment requirements in accordance with the rules adopted under 75554
division (C)(4) of this section. 75555

(E) The Department of Job and Family Services shall ensure 75556
that all reimbursements paid to an early learning agency under 75557
this section are only for Title IV-A services provided to eligible 75558
children. 75559

(F) Upon the transfer of appropriation from Department of 75560
Education appropriation line 200-663, Early Learning Initiative 75561
(Fund 5W2), to Department of Job and Family Services appropriation 75562

item 600-689, TANF Block Grant (Fund 3V6), up to \$94,380,000 in 75563
fiscal year 2006 and up to \$113,256,000 in fiscal year 2007 shall 75564
be used to reimburse early learning agencies under this section. 75565
The Department of Job and Family Services shall provide up to 75566
10,000 slots of services for eligible children in fiscal year 2006 75567
and up to 12,000 slots of services for eligible children in fiscal 75568
year 2007 through the Early Learning Initiative. In each fiscal 75569
year, the Department shall allocate at least seventeen slots of 75570
services to each county in the state. 75571

If, on or after the thirty-first day of December of each 75572
fiscal year, the Director of Budget and Management, in 75573
consultation with the Director of Job and Family Services and the 75574
Superintendent of Public Instruction, determines that there is a 75575
balance of funds in the Early Learning Initiative in either fiscal 75576
year 2006 or fiscal year 2007, the Director of Budget and 75577
Management may approve the use of the funds by the Department of 75578
Job and Family Services to provide publicly funded child care, as 75579
defined in section 5104.01 of the Revised Code. 75580

Of the foregoing appropriation item 600-689, TANF Block Grant 75581
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 75582
Department of Job and Family Services for administration of the 75583
Early Learning Initiative. 75584

The Director of Budget and Management, at the request of the 75585
Director of Job and Family Services, may transfer in each fiscal 75586
year up to \$2,200,000 cash from the Temporary Assistance for Needy 75587
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 75588
(Fund 5W2) for administration of the Early Learning Initiative by 75589
the Department of Education. 75590

(G) Any contract executed prior to July 1, 2005, between an 75591
early learning agency, the Department of Job and Family Services, 75592
and the Department of Education shall be deemed to be effective as 75593

of July 1, 2005, upon issuance of a state purchase order even if 75594
such purchase order is approved at some later date, unless the 75595
executed contract expressly provides for a start date after July 75596
1, 2005. 75597

Section 206.67.15. PRESCRIPTION DRUG REBATE FUND 75598

The foregoing appropriation item 600-692, Health Care 75599
Services, shall be used by the Department of Job and Family 75600
Services in accordance with section 5111.081 of the Revised Code. 75601
Moneys recovered by the Department for either hospital settlements 75602
or pursuant to the Department's rights of recovery under section 75603
5101.58 of the Revised Code, that are not directed to the Health 75604
Care Services Administration Fund (Fund 5U3) under section 5111.94 75605
of the Revised Code, shall also be deposited into Fund 5P5. 75606

**Section 206.67.18. MEDICAID COVERAGE OF ALCOHOL, DRUG 75607
ADDICTION, AND MENTAL HEALTH SERVICES** 75608

(A) The amendments made by this act to section 5111.911 of 75609
the Revised Code pertaining to the contracts between the 75610
Department of Job and Family Services and the Departments of 75611
Mental Health and Alcohol and Drug Addiction Services established 75612
as interagency agreements for the administration of components of 75613
the Medicaid program shall be implemented according to the 75614
following schedule: 75615

(1) As soon as practicable after the amendments go into 75616
effect, the contracts shall require or specify procedures for 75617
implementation of utilization review. 75618

(2) Not later than July 1, 2006, the contracts shall require 75619
or specify procedures for implementation of utilization management 75620
and care management. 75621

(3) Not later than July 1, 2007, the contracts shall require 75622

or specify a process for making payments to providers based on a 75623
provider-specific fixed-rate reimbursement methodology. 75624

(B) To the maximum extent possible, the amendments to section 75625
5111.911 of the Revised Code shall be implemented in a manner that 75626
is consistent with the "State of Ohio Community Behavioral Health 75627
Medicaid Business Plan" finalized in August 2004, by the 75628
Departments of Job and Family Services, Mental Health, and Alcohol 75629
and Drug Addiction Services and the Ohio Association of Behavioral 75630
Health Authorities. 75631

Section 206.67.21. AGED, BLIND, AND DISABLED MANAGED CARE 75632

(A) Not later than June 30, 2006, the Director of Job and 75633
Family Services, in conjunction with the Office of Budget and 75634
Management, shall determine the amounts necessary to implement the 75635
Aged, Blind, and Disabled Managed Care Program. 75636

(B)(1) Notwithstanding section 183.02 of the Revised Code, on 75637
July 1, 2006, or as soon as possible thereafter, the Director of 75638
Budget and Management shall transfer cash equal to the state share 75639
of the amount determined pursuant to division (A) of this section 75640
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 75641
the ABD Managed Care - State Fund (Fund 5BZ in the Department of 75642
Job and Family Services), which is hereby created. Of the tobacco 75643
revenue that is credited to the Tobacco Master Settlement 75644
Agreement Fund (Fund 087) in fiscal year 2006, the share that is 75645
determined pursuant to section 183.02 of the Revised Code to be 75646
the amount transferred by the Director of Budget and Management 75647
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 75648
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 75649
shall be reduced by the amount that is transferred from the 75650
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 75651
Managed Care - State Fund (Fund 5BZ) in accordance with this 75652
section. The amounts transferred under this division are hereby 75653

appropriated to appropriation item 600-698, ABD Managed Care - 75654
State. 75655

(2) Not later than July 31, 2007, the Director of Budget and 75656
Management shall transfer the unencumbered cash balance of the ABD 75657
Managed Care - State Fund (Fund 5BZ) to the Tobacco Use Prevention 75658
and Cessation Trust Fund (Fund H87). 75659

(C) The Department of Job and Family Services shall deposit 75660
federal reimbursement received for the Aged, Blind, and Disabled 75661
Managed Care Program into the ABD Managed Care - Federal Fund 75662
(Fund 3AZ), which is hereby created. Amounts deposited into Fund 75663
3AZ are hereby appropriated to appropriation item 600-699, ABD 75664
Managed Care - Federal. 75665

Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS 75666

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job 75667
and Family Services shall request that the United States Secretary 75668
of Agriculture waive the applicability of the work requirement of 75669
7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food 75670
stamp benefit recipients who reside in a county of this state that 75671
the Department determines has an unemployment rate of over 10 per 75672
cent or does not have a sufficient number of jobs to provide 75673
employment for the recipients. The Department shall make monthly 75674
determinations of which counties the waiver shall be in effect in. 75675
No individual may be exempted from the work requirements for more 75676
than a total of twelve months beginning July 1, 2005, and ending 75677
June 30, 2007. 75678

The Department shall report to the Speaker and Minority 75679
Leader of the House of Representatives and President and Minority 75680
Leader of the Senate on receipt or rejection of the waiver sought 75681
under this section. 75682

Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO 75683

General Revenue Fund				75684
GRF 018-321 Operating Expenses	\$	957,000	\$ 957,000	75685
TOTAL GRF General Revenue Fund	\$	957,000	\$ 957,000	75686
General Services Fund Group				75687
403 018-601 Ohio Jury Instructions	\$	225,000	\$ 225,000	75688
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	75689
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,182,000	\$ 1,182,000	75690
STATE COUNCIL OF UNIFORM STATE LAWS				75691
Notwithstanding section 105.26 of the Revised Code, of the				75692
foregoing appropriation item 018-321, Operating Expenses, up to				75693
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007				75694
may be used to pay the expenses of the State Council of Uniform				75695
State Laws, including membership dues to the National Conference				75696
of Commissioners on Uniform State Laws.				75697
OHIO JURY INSTRUCTIONS FUND				75698
The Ohio Jury Instructions Fund (Fund 403) shall consist of				75699
grants, royalties, dues, conference fees, bequests, devises, and				75700
other gifts received for the purpose of supporting costs incurred				75701
by the Judicial Conference of Ohio in dispensing educational and				75702
informational data to the state's judicial system. Fund 403 shall				75703
be used by the Judicial Conference of Ohio to pay expenses				75704
incurred in dispensing educational and informational data to the				75705
state's judicial system. All moneys accruing to Fund 403 in excess				75706
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in				75707
fiscal year 2007 are hereby appropriated for the purposes				75708
authorized.				75709
No money in the Ohio Jury Instructions Fund shall be				75710
transferred to any other fund by the Director of Budget and				75711
Management or the Controlling Board.				75712

Section 206.75. JSC THE JUDICIARY/SUPREME COURT				75713
General Revenue Fund				75714
GRF 005-321	Operating Expenses -	\$ 118,855,655	\$ 121,441,259	75715
	Judiciary/Supreme			
	Court			
GRF 005-401	State Criminal	\$ 328,676	\$ 343,730	75716
	Sentencing Council			
GRF 005-406	Law-Related Education	\$ 216,131	\$ 222,615	75717
GRF 005-502	Commission for Legal	\$ 435,000	\$ 875,000	75718
	Education Opportunity			
TOTAL GRF	General Revenue Fund	\$ 119,835,462	\$ 122,882,604	75719
General Services Fund Group				75720
672 005-601	Continuing Judicial	\$ 130,000	\$ 130,000	75721
	Education			
TOTAL GSF	General Services Fund	\$ 130,000	\$ 130,000	75722
Group				
Federal Special Revenue Fund Group				75723
3J0 005-603	Federal Grants	\$ 848,070	\$ 861,382	75724
TOTAL FED	Federal Special Revenue	\$ 848,070	\$ 861,382	75725
Fund Group				
State Special Revenue Fund Group				75726
4C8 005-605	Attorney Registration	\$ 3,169,774	\$ 3,264,867	75727
5T8 005-609	Grants and Awards	\$ 10,000	\$ 10,000	75728
6A8 005-606	Supreme Court	\$ 1,410,718	\$ 1,453,042	75729
	Admissions			
643 005-607	Commission on	\$ 569,203	\$ 586,261	75730
	Continuing Legal			
	Education			
TOTAL SSR	State Special Revenue	\$ 5,159,695	\$ 5,314,170	75731
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 125,973,227	\$ 129,188,156	75732

LAW-RELATED EDUCATION 75733

The foregoing appropriation item 005-406, Law-Related 75734
Education, shall be distributed directly to the Ohio Center for 75735
Law-Related Education for the purposes of providing continuing 75736
citizenship education activities to primary and secondary 75737
students, expanding delinquency prevention programs, increasing 75738
activities for at-risk youth, and accessing additional public and 75739
private money for new programs. 75740

COMMISSION FOR LEGAL EDUCATION OPPORTUNITY 75741

The foregoing appropriation item 005-502, Commission for 75742
Legal Education Opportunity, shall be used to fund activities of 75743
the Commission for Legal Education Opportunity created by the 75744
Chief Justice of the Supreme Court of Ohio for purposes of 75745
assisting minority, low-income, and educationally disadvantaged 75746
college graduates in transition to legal education. Moneys 75747
appropriated to the Commission for Legal Education Opportunity may 75748
be used to establish and provide intensive course study designed 75749
to prepare eligible college graduates for law education, provide 75750
annual stipends for students who successfully complete the course 75751
of study and are admitted to and maintain satisfactory academic 75752
standing in an Ohio law school, and pay the administrative costs 75753
associated with the program. 75754

CONTINUING JUDICIAL EDUCATION 75755

The Continuing Judicial Education Fund (Fund 672) shall 75756
consist of fees paid by judges and court personnel for attending 75757
continuing education courses and other gifts and grants received 75758
for the purpose of continuing judicial education. The foregoing 75759
appropriation item 005-601, Continuing Judicial Education, shall 75760
be used to pay expenses for continuing education courses for 75761
judges and court personnel. If it is determined by the 75762
Administrative Director of the Supreme Court that additional 75763

appropriations are necessary, the amounts are hereby appropriated. 75764

No money in the Continuing Judicial Education Fund shall be 75765
transferred to any other fund by the Director of Budget and 75766
Management or the Controlling Board. Interest earned on moneys in 75767
the Continuing Judicial Education Fund shall be credited to the 75768
fund. 75769

FEDERAL GRANTS 75770

The Federal Grants Fund (Fund 3J0) shall consist of grants 75771
and other moneys awarded to the Supreme Court (The Judiciary) by 75772
the United States Government or other entities that receive the 75773
moneys directly from the United States Government and distribute 75774
those moneys to the Supreme Court (The Judiciary). The foregoing 75775
appropriation item 005-603, Federal Grants, shall be used in a 75776
manner consistent with the purpose of the grant or award. If it is 75777
determined by the Administrative Director of the Supreme Court 75778
that additional appropriations are necessary, the amounts are 75779
hereby appropriated. 75780

No money in the Federal Grants Fund shall be transferred to 75781
any other fund by the Director of Budget and Management or the 75782
Controlling Board. However, interest earned on moneys in the 75783
Federal Grants Fund shall be credited or transferred to the 75784
General Revenue Fund. 75785

ATTORNEY REGISTRATION 75786

In addition to funding other activities considered 75787
appropriate by the Supreme Court, the foregoing appropriation item 75788
005-605, Attorney Registration, may be used to compensate 75789
employees and to fund appropriate activities of the following 75790
offices established by the Supreme Court under the Rules for the 75791
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 75792
the Board of Commissioners on Grievances and Discipline, the 75793
Clients' Security Fund, the Board of Commissioners on the 75794

Unauthorized Practice of Law, and the Office of Attorney 75795
Registration. If it is determined by the Administrative Director 75796
of the Supreme Court that additional appropriations are necessary, 75797
the amounts are hereby appropriated. 75798

No moneys in the Attorney Registration Fund shall be 75799
transferred to any other fund by the Director of Budget and 75800
Management or the Controlling Board. Interest earned on moneys in 75801
the Attorney Registration Fund shall be credited to the fund. 75802

GRANTS AND AWARDS 75803

The Grants and Awards Fund (Fund 5T8) shall consist of grants 75804
and other moneys awarded to the Supreme Court (The Judiciary) by 75805
the State Justice Institute, the Division of Criminal Justice 75806
Services, or other entities. The foregoing appropriation item 75807
005-609, Grants and Awards, shall be used in a manner consistent 75808
with the purpose of the grant or award. If it is determined by the 75809
Administrative Director of the Supreme Court that additional 75810
appropriations are necessary, the amounts are hereby appropriated. 75811

No moneys in the Grants and Awards Fund shall be transferred 75812
to any other fund by the Director of Budget and Management or the 75813
Controlling Board. However, interest earned on moneys in the 75814
Grants and Awards Fund shall be credited or transferred to the 75815
General Revenue Fund. 75816

SUPREME COURT ADMISSIONS 75817

The foregoing appropriation item 005-606, Supreme Court 75818
Admissions, shall be used to compensate Supreme Court employees 75819
who are primarily responsible for administering the attorney 75820
admissions program under the Rules for the Government of the Bar 75821
of Ohio, and to fund any other activities considered appropriate 75822
by the court. Moneys shall be deposited into the Supreme Court 75823
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 75824
Government of the Bar of Ohio. If it is determined by the 75825

Administrative Director of the Supreme Court that additional 75826
appropriations are necessary, the amounts are hereby appropriated. 75827

No moneys in the Supreme Court Admissions Fund shall be 75828
transferred to any other fund by the Director of Budget and 75829
Management or the Controlling Board. Interest earned on moneys in 75830
the Supreme Court Admissions Fund shall be credited to the fund. 75831

CONTINUING LEGAL EDUCATION 75832

The foregoing appropriation item 005-607, Commission on 75833
Continuing Legal Education, shall be used to compensate employees 75834
of the Commission on Continuing Legal Education established under 75835
the Supreme Court Rules for the Government of the Bar of Ohio, and 75836
to fund other activities of the commission considered appropriate 75837
by the court. If it is determined by the Administrative Director 75838
of the Supreme Court that additional appropriations are necessary, 75839
the amounts are hereby appropriated. 75840

No moneys in the Continuing Legal Education Fund shall be 75841
transferred to any other fund by the Director of Budget and 75842
Management or the Controlling Board. Interest earned on moneys in 75843
the Continuing Legal Education Fund shall be credited to the fund. 75844

Section 206.78. LEC LAKE ERIE COMMISSION 75845

State Special Revenue Fund Group 75846

4C0	780-601	Lake Erie Protection	\$	875,000	\$	875,000	75847
		Fund					

5D8	780-602	Lake Erie Resources	\$	486,072	\$	492,794	75848
		Fund					

TOTAL SSR State Special Revenue 75849

Fund Group		\$	1,361,072	\$	1,367,794	75850
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TOTAL ALL BUDGET FUND GROUPS		\$	1,361,072	\$	1,367,794	75851
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CASH TRANSFER 75852

Not later than the thirtieth day of November of each fiscal 75853

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 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 hereby appropriated to the
foregoing appropriation item 780-601, Lake Erie Protection Fund,
which shall be increased by the amount transferred.

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Section 206.81. LRS LEGAL RIGHTS SERVICE

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General Revenue Fund

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GRF 054-100 Personal Services	\$	162,281	\$	162,281	75871
GRF 054-200 Maintenance	\$	33,938	\$	33,938	75872
GRF 054-300 Equipment	\$	1,856	\$	1,856	75873
GRF 054-401 Ombudsman	\$	291,247	\$	291,247	75874
TOTAL GRF General Revenue Fund	\$	489,322	\$	489,322	75875

General Services Fund Group

75876

416 054-601 Gifts and Donations	\$	1,352	\$	1,352	75877
5M0 054-610 Settlements	\$	75,000	\$	75,000	75878
TOTAL GSF General Services					75879

Fund Group

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Federal Special Revenue Fund Group

75881

3AG 054-613 Protection and Advocacy - Voter Accessibility	\$	114,089	\$	114,089	75882
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3B8	054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041	75883
3N3	054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283	75884
3N9	054-607	Assistive Technology	\$	141,686	\$	141,686	75885
3R9	054-604	Family Support Collaborative	\$	50,000	\$	50,000	75886
3T2	054-609	Client Assistance Program	\$	400,553	\$	400,553	75887
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	75888
3Z6	054-612	Traumatic Brain Injury	\$	65,138	\$	65,138	75889
305	054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082	75890
TOTAL FED	Federal Special Revenue						75891
Fund Group			\$	3,937,656	\$	3,937,656	75892
State Special Revenue Fund Group							75893
5AE	054-614	Grants and Contracts	\$	75,000	\$	75,000	75894
TOTAL SSR	State Special Revenue		\$	75,000	\$	75,000	75895
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	4,578,330	\$	4,578,330	75896
Section 206.84.	JLE JOINT LEGISLATIVE ETHICS COMMITTEE						75898
General Revenue Fund							75899
GRF	028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	75900

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	75901
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	75902

Section 206.87. LSC LEGISLATIVE SERVICE COMMISSION 75904

General Revenue Fund 75905

GRF 035-321 Operating Expenses	\$	14,770,000	\$	14,770,000	75906
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GRF 035-402 Legislative Interns	\$	1,012,000	\$	1,012,000	75907
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GRF 035-403 Legislative Budget	\$	656,427	\$	1,256,427	75908
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Office

GRF 035-404 Legislative Office of	\$	600,000	\$	0	75909
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Education Oversight

GRF 035-405 Correctional	\$	375,000	\$	390,000	75910
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Institution Inspection

Committee

GRF 035-409 National Associations	\$	445,000	\$	456,000	75911
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GRF 035-410 Legislative	\$	3,625,000	\$	3,625,000	75912
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Information Systems

TOTAL GRF General Revenue Fund	\$	21,483,427	\$	21,509,427	75913
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General Services Fund Group 75914

4F6 035-603 Legislative Budget	\$	152,000	\$	152,500	75915
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Services

410 035-601 Sale of Publications	\$	25,000	\$	25,000	75916
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TOTAL GSF General Services					75917
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Fund Group	\$	177,000	\$	177,500	75918
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TOTAL ALL BUDGET FUND GROUPS	\$	21,660,427	\$	21,686,927	75919
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ELIMINATION OF LEGISLATIVE OFFICE OF EDUCATION OVERSIGHT 75920

The Office of Legislative Office of Education Oversight shall 75921

complete statutorily required studies by December 31, 2005. On 75922

January 1, 2006, the Director of Budget and Management shall 75923

transfer the unencumbered cash balance from appropriation item 75924

035-404, Legislative Office of Education Oversight, to 75925

appropriation item 035-403, Legislative Budget Office. 75926

Section 206.90. LIB STATE LIBRARY BOARD				75927
General Revenue Fund				75928
GRF 350-321	Operating Expenses	\$ 6,398,677	\$ 6,398,677	75929
GRF 350-400	Ohio Public Library	\$ 4,230,000	\$ 4,230,000	75930
Information Network				
GRF 350-401	Ohioana Rental	\$ 124,816	\$ 124,816	75931
Payments				
GRF 350-501	Library for the	\$ 535,615	\$ 535,615	75932
Blind-Cincinnati				
GRF 350-502	Regional Library	\$ 1,010,441	\$ 1,010,441	75933
Systems				
GRF 350-503	Library for the	\$ 805,642	\$ 805,642	75934
Blind-Cleveland				
TOTAL GRF	General Revenue Fund	\$ 13,105,191	\$ 13,105,191	75935
General Services Fund Group				75936
139 350-602	Intra-Agency Service	\$ 9,000	\$ 9,000	75937
Charges				
4S4 350-604	OPLIN Technology	\$ 3,000,000	\$ 3,000,000	75938
459 350-602	Interlibrary Service	\$ 2,469,925	\$ 2,708,092	75939
Charges				
TOTAL GSF	General Services			75940
Fund Group		\$ 5,478,925	\$ 5,717,092	75941
Federal Special Revenue Fund Group				75942
313 350-601	LSTA Federal	\$ 5,643,905	\$ 5,643,905	75943
TOTAL FED	Federal Special Revenue			75944
Fund Group		\$ 5,643,905	\$ 5,643,905	75945
TOTAL ALL BUDGET FUND GROUPS		\$ 24,228,021	\$ 24,466,188	75946
OHIOANA LIBRARY ASSOCIATION OPERATING FUNDS				75947
Of the foregoing appropriation item 350-321, Operating				75948
Expenses, \$100,000 shall be used in each fiscal year to cover				75949

operating costs of the Ohioana Library Association.	75950
OHIOANA RENTAL PAYMENTS	75951
The foregoing appropriation item 350-401, Ohioana Rental	75952
Payments, shall be used to pay the rental expenses of the Martha	75953
Kinney Cooper Ohioana Library Association pursuant to section	75954
3375.61 of the Revised Code.	75955
LIBRARY FOR THE BLIND-CINCINNATI	75956
The foregoing appropriation item 350-501, Library for the	75957
Blind-Cincinnati, shall be used for the Talking Book program,	75958
which assists the blind and disabled.	75959
REGIONAL LIBRARY SYSTEMS	75960
The foregoing appropriation item 350-502, Regional Library	75961
Systems, shall be used to support regional library systems	75962
eligible for funding under sections 3375.83 and 3375.90 of the	75963
Revised Code.	75964
LIBRARY FOR THE BLIND-CLEVELAND	75965
The foregoing appropriation item 350-503, Library for the	75966
Blind-Cleveland, shall be used for the Talking Book program, which	75967
assists the blind and disabled.	75968
OHIO PUBLIC LIBRARY INFORMATION NETWORK	75969
The foregoing appropriation items 350-604, OPLIN Technology,	75970
and 350-400, Ohio Public Library Information Network, shall be	75971
used for an information telecommunications network linking public	75972
libraries in the state and such others as may be certified as	75973
participants by the Ohio Public Library Information Network Board.	75974
The Ohio Public Library Information Network Board shall	75975
consist of eleven members appointed by the State Library Board	75976
from among the staff of public libraries and past and present	75977
members of boards of trustees of public libraries, based on the	75978

recommendations of the Ohio library community. The Ohio Public
Library Information Network Board, in consultation with the State
Library, shall develop a plan of operations for the network. The
board may make decisions regarding use of the foregoing
appropriation items 350-400, Ohio Public Library Information
Network, and 350-604, OPLIN Technology, may receive and expend
grants to carry out the operations of the network in accordance
with state law, and may appoint and fix the compensation of a
director and necessary staff. The State Library shall be the
fiscal agent for the network and shall have fiscal accountability
for the expenditure of funds. The Ohio Public Library Information
Network Board members shall be reimbursed for actual travel and
necessary expenses incurred in carrying out their
responsibilities.

In order to limit access to obscene and illegal materials
through internet use at Ohio Public Library Information Network
(OPLIN) terminals, local libraries with OPLIN computer terminals
shall adopt policies that control access to obscene and illegal
materials. These policies may include use of technological systems
to select or block certain internet access. The OPLIN shall
condition provision of its funds, goods, and services on
compliance with these policies. The OPLIN Board shall also adopt
and communicate specific recommendations to local libraries on
methods to control such improper usage. These methods may include
each library implementing a written policy controlling such
improper use of library terminals and requirements for parental
involvement or written authorization for juvenile internet usage.

The OPLIN Board shall research and assist or advise local
libraries with regard to emerging technologies and methods that
may be effective means to control access to obscene and illegal
materials. The OPLIN Executive Director shall biannually provide
written reports to the Governor, the Speaker and Minority Leader

of the House of Representatives, and the President and Minority
 Leader of the Senate on any steps being taken by OPLIN and public
 libraries in the state to limit and control such improper usage as
 well as information on technological, legal, and law enforcement
 trends nationally and internationally affecting this area of
 public access and service.

The Ohio Public Library Information Network, INFOhio, and
 OhioLINK shall, to the extent feasible, coordinate and cooperate
 in their purchase or other acquisition of the use of electronic
 databases for their respective users and shall contribute funds in
 an equitable manner to such effort.

Section 206.93. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group				76023
043 970-321 Operating Expenses	\$	781,181	\$ 803,348	76024
TOTAL LCF Liquor Control Fund Group	\$	781,181	\$ 803,348	76025
TOTAL ALL BUDGET FUND GROUPS	\$	781,181	\$ 803,348	76026

Section 206.96. LOT STATE LOTTERY COMMISSION

General Services Fund Group				76029
231 950-604 Charitable Gaming	\$	1,200,000	\$ 1,200,000	76030
Oversight				
TOTAL GSF General Services Fund	\$	1,200,000	\$ 1,200,000	76031
Group				
State Lottery Fund Group				76032
044 950-100 Personal Services	\$	24,969,422	\$ 25,457,016	76033
044 950-200 Maintenance	\$	17,642,894	\$ 17,954,156	76034
044 950-300 Equipment	\$	2,517,533	\$ 2,494,718	76035
044 950-402 Game and Advertising	\$	70,524,000	\$ 70,024,000	76036
Contracts				
044 950-500 Problem Gambling	\$	335,000	\$ 335,000	76037
Subsidy				

044 950-601 Prizes, Bonuses, and	\$	150,952,466	\$	147,716,286	76038
Commissions					
871 950-602 Annuity Prizes	\$	148,680,031	\$	138,918,557	76039
TOTAL SLF State Lottery Fund					76040
Group	\$	415,621,346	\$	402,899,733	76041
TOTAL ALL BUDGET FUND GROUPS	\$	416,821,346	\$	404,099,733	76042

OPERATING EXPENSES 76043

Notwithstanding sections 127.14 and 131.35 of the Revised 76044
Code, the Controlling Board may, at the request of the State 76045
Lottery Commission, authorize additional appropriations for 76046
operating expenses of the State Lottery Commission from the State 76047
Lottery Fund up to a maximum of 15 per cent of anticipated total 76048
revenue accruing from the sale of lottery tickets. 76049

PRIZES, BONUSSES, AND COMMISSIONS 76050

Any amounts, in addition to the amounts appropriated in 76051
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 76052
the Director of the State Lottery Commission determines to be 76053
necessary to fund prizes, bonuses, and commissions are hereby 76054
appropriated. 76055

ANNUITY PRIZES 76056

With the approval of the Office of Budget and Management, the 76057
State Lottery Commission shall transfer cash from the State 76058
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 76059
(Fund 871) in an amount sufficient to fund deferred prizes. The 76060
Treasurer of State, from time to time, shall credit the Deferred 76061
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 76062
by the Treasurer of State on invested balances. 76063

Any amounts, in addition to the amounts appropriated in 76064
appropriation item 950-602, Annuity Prizes, that the Director of 76065
the State Lottery Commission determines to be necessary to fund 76066
deferred prizes and interest earnings are hereby appropriated. 76067

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND				76068
The Ohio Lottery Commission shall transfer an amount greater				76069
than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000				76070
in fiscal year 2007 to the Lottery Profits Education Fund.				76071
Transfers from the Commission to the Lottery Profits Education				76072
Fund shall represent the estimated net income from operations for				76073
the Commission in fiscal year 2006 and fiscal year 2007. Transfers				76074
by the Commission to the Lottery Profits Education Fund shall be				76075
administered as the statutes direct.				76076
Section 206.99. MHC MANUFACTURED HOMES COMMISSION				76077
General Services Fund Group				76078
4K9 996-609 Operating Expenses	\$	272,500	\$	0 76079
TOTAL GSF General Services				76080
Fund Group	\$	272,500	\$	0 76081
TOTAL ALL BUDGET FUND GROUPS	\$	272,500	\$	0 76082
INCREASED APPROPRIATION THROUGH CONTROLLING BOARD				76083
The Manufactured Homes Commission shall seek Controlling				76084
Board approval in fiscal year 2006 for a planned increase of at				76085
least \$356,250 in appropriation item 996-609, Operating Expenses.				76086
Section 209.01. DOM DEPARTMENT OF OHIO MEDICAID				76087
General Revenue Fund				76088
GRF 450-425 Office of Ohio Health				76089
Plans				
State	\$	24,803,631	\$	24,054,873 76090
Federal	\$	26,539,544	\$	25,810,409 76091
Office of Ohio Health	\$	51,343,175	\$	49,865,282 76092
Plans Total				
GRF 450-525 Health Care/Medicaid				76093
State	\$	3,781,842,629	\$	3,820,340,675 76094

Federal	\$ 5,659,250,287	\$ 5,768,292,576	76095
Health Care Total	\$ 9,441,092,916	\$ 9,588,633,251	76096
GRF 450-526 Medicare Part D	\$ 155,349,266	\$ 339,578,325	76097
Total GRF General Revenue Fund			76098
State	\$ 3,961,995,526	\$ 4,183,973,873	76099
Federal	\$ 5,685,789,831	\$ 5,794,102,985	76100
GRF Total	\$ 9,647,785,357	\$ 9,978,076,858	76101
TOTAL ALL BUDGET FUND GROUPS	\$ 9,647,785,357	\$ 9,978,076,858	76102

Section 209.01.03. MEDICAID APPROPRIATIONS 76104

The foregoing appropriation items 450-425, Office of Ohio Health Plans, 450-525, Health Care/Medicaid, and 450-526, Medicare Part D, shall be used by the Department of Job and Family Services for the Ohio Medicaid program. 76105
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Section 209.01.06. HEALTH CARE/MEDICAID 76109

The foregoing appropriation item 450-525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code. 76110
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Section 209.01.09. MEDICARE PART D 76113

The foregoing appropriation item 450-526, Medicare Part D, may be used by the Department of Job and Family Services for the implementation and operation of the Medicare Part D requirements contained in the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon the request of the Department of Job and Family Services, the Director of Budget and Management may increase the state share of appropriations in either appropriation item 450-525, Health Care/Medicaid, or appropriation item 450-526, Medicare Part D, with a corresponding decrease in the state share of the other appropriation item to allow the Department of Job and Family 76114
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Services to implement and operate the new Medicare Part D 76125
 requirements. If the state share of appropriation item 450-525, 76126
 Health Care/Medicaid, is adjusted, the Director of Budget and 76127
 Management shall adjust the federal share accordingly. 76128

Section 209.03. MED STATE MEDICAL BOARD 76129

General Services Fund Group 76130
 5C6 883-609 Operating Expenses \$ 7,467,317 \$ 7,467,317 76131
 TOTAL GSF General Services 76132
 Fund Group \$ 7,467,317 \$ 7,467,317 76133
 TOTAL ALL BUDGET FUND GROUPS \$ 7,467,317 \$ 7,467,317 76134

Section 209.04. AMB MEDICAL TRANSPORTATION BOARD 76136

General Services Fund Group 76137
 4N1 915-601 Operating Expenses \$ 388,450 \$ 0 76138
 TOTAL GSF General Services 76139
 Fund Group \$ 388,450 \$ 0 76140
 TOTAL ALL BUDGET FUND GROUPS \$ 388,450 \$ 0 76141

Section 209.06. DMH DEPARTMENT OF MENTAL HEALTH 76143

General Services Fund Group 76144
 151 235-601 General Administration \$ 89,614,180 \$ 93,898,713 76145
 TOTAL ISF Intragovernmental 76146
 Service Fund Group \$ 89,614,180 \$ 93,898,713 76147

Division of Mental Health-- 76148

Psychiatric Services to Correctional Facilities 76149

General Revenue Fund 76150
 GRF 332-401 Forensic Services \$ 4,338,858 \$ 4,338,858 76151
 TOTAL GRF General Revenue Fund \$ 4,338,858 \$ 4,338,858 76152

FORENSIC SERVICES 76153

The foregoing appropriation item 332-401, Forensic Services, 76154

shall be used to provide psychiatric services to courts of common
pleas. The appropriation shall be allocated through community
mental health boards to certified community agencies and shall be
distributed according to the criteria delineated in rule
5122:4-1-01 of the Administrative Code. These community forensic
funds may also be used to provide forensic training to community
mental health boards and to forensic psychiatry residency programs
in hospitals operated by the Department of Mental Health and to
provide evaluations of patients of forensic status in facilities
operated by the Department of Mental Health prior to conditional
release to the community.

In addition, appropriation item 332-401, Forensic Services,
may be used to support projects involving mental health, substance
abuse, courts, and law enforcement to identify and develop
appropriate alternative services to institutionalization for
nonviolent mentally ill offenders, and to provide linkage to
community services for severely mentally disabled offenders
released from institutions operated by the Department of
Rehabilitation and Correction. Funds may also be utilized to
provide forensic monitoring and tracking in addition to community
programs serving persons of forensic status on conditional release
or probation.

Division of Mental Health--

Administration and Statewide Programs

General Revenue Fund

GRF 333-321	Central Administration	\$	23,853,669	\$	23,853,669	76180
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919	76181
GRF 333-403	Pre-Admission	\$	650,135	\$	650,135	76182
	Screening Expenses					
GRF 333-415	Lease-Rental Payments	\$	23,296,200	\$	23,833,600	76183
GRF 333-416	Research Program	\$	1,001,551	\$	1,001,551	76184
	Evaluation					

TOTAL GRF General Revenue Fund	\$	50,166,474	\$	50,703,874	76185
General Services Fund Group					76186
149 333-609 Central Office Rotary	\$	883,773	\$	893,786	76187
- Operating					
TOTAL General Services Fund Group	\$	883,773	\$	893,786	76188
Federal Special Revenue Fund Group					76189
3A6 333-608 Community & Hospital	\$	65,000	\$	0	76190
Services					
3A8 333-613 Federal Grant -	\$	562,417	\$	512,417	76191
Administration					
3A9 333-614 Mental Health Block	\$	748,740	\$	748,470	76192
Grant					
3B1 333-635 Community Medicaid	\$	3,671,537	\$	3,691,683	76193
Expansion					
324 333-605 Medicaid/Medicare	\$	150,000	\$	150,000	76194
TOTAL Federal Special Revenue					76195
Fund Group	\$	5,197,694	\$	5,102,570	76196
State Special Revenue Fund Group					76197
4X5 333-607 Behavioral Health	\$	3,000,634	\$	3,000,634	76198
Medicaid Services					
485 333-632 Mental Health	\$	134,233	\$	134,233	76199
Operating					
TOTAL State Special Revenue					76200
Fund Group	\$	3,134,867	\$	3,134,867	76201
TOTAL ALL BUDGET FUND GROUPS	\$	59,382,808	\$	59,835,097	76202

RESIDENCY TRAINEESHIP PROGRAMS 76203

The foregoing appropriation item 333-402, Resident Trainees, 76204
shall be used to fund training agreements entered into by the 76205
Department of Mental Health for the development of curricula and 76206
the provision of training programs to support public mental health 76207
services. 76208

PRE-ADMISSION SCREENING EXPENSES 76209

The foregoing appropriation item 333-403, Pre-Admission 76210
Screening Expenses, shall be used to pay for costs to ensure that 76211
uniform statewide methods for pre-admission screening are in place 76212
to perform assessments for persons in need of mental health 76213
services or for whom institutional placement in a hospital or in 76214
another inpatient facility is sought. Pre-admission screening 76215
includes the following activities: pre-admission assessment, 76216
consideration of continued stay requests, discharge planning and 76217
referral, and adjudication of appeals and grievance procedures. 76218

LEASE-RENTAL PAYMENTS 76219

The foregoing appropriation item 333-415, Lease-Rental 76220
Payments, shall be used to meet all payments at the times they are 76221
required to be made during the period from July 1, 2005, to June 76222
30, 2007, by the Department of Mental Health under leases and 76223
agreements made under section 154.20 of the Revised Code, but 76224
limited to the aggregate amount of \$47,129,800. Nothing in this 76225
act shall be deemed to contravene the obligation of the state to 76226
pay, without necessity for further appropriation, from the sources 76227
pledged thereto, the bond service charges on obligations issued 76228
under section 154.20 of the Revised Code. 76229

BEHAVIORAL HEALTH MEDICAID SERVICES 76230

The Department of Mental Health shall administer specified 76231
Medicaid Services as delegated by the Department of Job and Family 76232
Services in an interagency agreement. The foregoing appropriation 76233
item 333-607, Behavioral Health Medicaid Services, may be used to 76234
make payments for free-standing psychiatric hospital inpatient 76235
services as defined in an interagency agreement with the 76236
Department of Job and Family Services. 76237

Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS 76238

General Revenue Fund				76239
GRF 334-408 Community and Hospital	\$ 390,424,545	\$ 400,324,545		76240
Mental Health Services				
GRF 334-506 Court Costs	\$ 976,652	\$ 976,652		76241
TOTAL GRF General Revenue Fund	\$ 391,401,197	\$ 401,301,197		76242
General Services Fund Group				76243
149 334-609 Hospital Rotary -	\$ 24,408,053	\$ 24,408,053		76244
Operating Expenses				
150 334-620 Special Education	\$ 120,930	\$ 120,930		76245
TOTAL GSF General Services				76246
Fund Group	\$ 24,528,983	\$ 24,528,983		76247
Federal Special Revenue Fund Group				76248
3A6 334-608 Subsidy for Federal	\$ 586,224	\$ 586,224		76249
Grants				
3A8 334-613 Federal Letter of	\$ 200,000	\$ 200,000		76250
Credit				
3B0 334-617 Elementary and	\$ 171,930	\$ 178,807		76251
Secondary Education				
Act				
3B1 334-635 Hospital Medicaid	\$ 2,000,000	\$ 2,000,000		76252
Expansion				
324 334-605 Medicaid/Medicare	\$ 11,764,280	\$ 11,873,408		76253
TOTAL FED Federal Special Revenue				76254
Fund Group	\$ 14,722,434	\$ 14,838,439		76255
State Special Revenue Fund Group				76256
485 334-632 Mental Health	\$ 2,476,297	\$ 2,476,297		76257
Operating				
692 334-636 Community Mental	\$ 80,000	\$ 80,000		76258
Health Board Risk Fund				
TOTAL SSR State Special Revenue				76259
Fund Group	\$ 2,556,297	\$ 2,556,297		76260
TOTAL ALL BUDGET FUND GROUPS	\$ 433,208,911	\$ 443,224,916		76261

COMMUNITY MENTAL HEALTH BOARD RISK FUND				76262	
The foregoing appropriation item 334-636, Community Mental				76263	
Health Board Risk Fund, shall be used to make payments under				76264	
section 5119.62 of the Revised Code.				76265	
Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY				76266	
SUPPORT SERVICES				76267	
General Revenue Fund				76268	
GRF 335-404 Behavioral Health	\$	6,365,265	\$	7,365,265	76269
Services-Children					
GRF 335-405 Family & Children	\$	1,760,000	\$	1,760,000	76270
First					
GRF 335-419 Community Medication	\$	7,959,798	\$	7,959,798	76271
Subsidy					
GRF 335-505 Local Mental Health	\$	94,687,868	\$	99,687,868	76272
Systems of Care					
TOTAL GRF General Revenue Fund	\$	110,772,931	\$	116,772,931	76273
General Services Fund Group					76274
4P9 335-604 Community Mental	\$	250,000	\$	250,000	76275
Health Projects					
TOTAL GSF General Services					76276
Fund Group	\$	250,000	\$	250,000	76277
Federal Special Revenue Fund Group					76278
3A6 335-608 Federal Miscellaneous	\$	1,089,699	\$	678,699	76279
3A7 335-612 Social Services Block	\$	8,657,288	\$	8,657,288	76280
Grant					
3A8 335-613 Federal Grant -	\$	2,407,040	\$	2,407,040	76281
Community Mental					
Health Board Subsidy					
3A9 335-614 Mental Health Block	\$	14,969,400	\$	14,969,400	76282
Grant					

3B1 335-635 Community Medicaid	\$	264,088,404	\$	282,807,902	76283
Expansion					
TOTAL FED Federal Special Revenue	\$	291,211,831	\$	309,520,329	76284
Fund Group					
State Special Revenue Fund Group					76285
632 335-616 Community Capital	\$	350,000	\$	350,000	76286
Replacement					
TOTAL SSR State Special Revenue	\$	350,000	\$	350,000	76287
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	402,584,762	\$	426,893,260	76288
DEPARTMENT TOTAL					76289
GENERAL REVENUE FUND	\$	556,679,460	\$	573,116,860	76290
DEPARTMENT TOTAL					76291
GENERAL SERVICES FUND GROUP	\$	115,276,926	\$	119,571,482	76292
DEPARTMENT TOTAL					76293
FEDERAL SPECIAL REVENUE					76294
FUND GROUP	\$	311,131,959	\$	329,461,338	76295
DEPARTMENT TOTAL					76296
STATE SPECIAL REVENUE FUND GROUP	\$	6,041,164	\$	6,041,164	76297
DEPARTMENT TOTAL					76298
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	989,129,519	\$	1,028,190,844	76299

Section 209.06.09. COMMUNITY MEDICATION SUBSIDY 76301

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

LOCAL MENTAL HEALTH SYSTEMS OF CARE 76307

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 under section 340.03 of the Revised Code and as approved by the Department of Mental Health. 76311
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Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards. 76313
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Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support. 76317
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BEHAVIORAL HEALTH - CHILDREN 76319

The foregoing appropriation item 335-404, Behavioral Health Services-Children, shall be used to provide behavioral health services for children and their families. Behavioral health services include mental health and alcohol and other drug treatment services and other necessary supports. 76320
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Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$5.0 million in fiscal year 2006 and \$6.0 million in fiscal year 2007 shall be distributed to local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards, based upon an approved plan developed and endorsed by the local Family and Children First Council. Plans for the use of these funds shall be approved by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council. This team shall be appointed not later than July 1, 2005, and shall include, but not be limited to, all of the following: 76325
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(A) At least one representative from each of the Departments of Alcohol and Drug Addiction Services, Mental Health, Education, Job and Family Services, Mental Retardation and Developmental Disabilities, and the Department of Youth Services; 76337
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(B) At least one person representing local public children's services agencies; 76341
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(C) At least one person representing juvenile courts; 76343

(D) At least one person representing local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards; 76344
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(E) At least one person representing local Family and Children First Council Coordinators; 76347
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(F) At least one family representative. 76349

Plans shall be clearly connected to the county service coordination mechanism as defined in section 121.37 of the Revised Code and shall address all of the following as determined by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council: 76350
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(A) Providing services to children with behavioral health disorders, particularly those with intensive needs, and their families, across all child-serving systems, including child welfare and juvenile justice and for those youth whose parents would otherwise have to relinquish custody to obtain needed behavioral health services; 76355
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(B) Assuring that families are included in all service planning activities and have access to advocates to assist them if they choose; 76361
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(C) Implementation of home-based services and other alternatives to out-of-home placement; 76364
76365

(D) Assuring that all individual service plans for children and their families address the academic achievement of the child; 76366
76367

(E) Coordinating the most efficient and effective use of federal, state, and local funds to meet the needs of children and their families. 76368
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Funds may be used to support the following services and activities: 76371
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(A) Mental health services provided by the Ohio Department of Mental Health certified agencies and alcohol and other drug services provided by Department of Alcohol and Drug Addiction Services certified agencies; 76373
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(B) Services and supports for children and their families that further the implementation of their individual service plans; 76377
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(C) Treatment services in out-of-home settings, including residential facilities, when other alternatives are not available or feasible; 76379
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(D) Administrative support for efforts associated with this initiative; 76382
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(E) These funds shall not be used to supplant existing efforts. 76384
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The Ohio Family and Children First Cabinet Council appointed team shall approve the plans for local behavioral health services and ensure the plans are components of and properly coordinated with the county service coordination plan as defined in section 121.37 of the Revised Code. In addition to approving the plans for new behavioral health funding, this team shall design a mechanism to provide technical assistance to local communities, monitor the plans, and may, as part of the monitoring role, conduct site visits. 76386
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Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$1.0 million in fiscal year 2006 and \$1.0 million in fiscal year 2007 shall be used to support at least three demonstration projects, as determined by the Ohio Family and Children First Cabinet Council, in select areas around the state to focus on improving behavioral health 76395
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services for children involved in the child welfare and juvenile 76401
justice systems. At least one of these demonstration projects 76402
shall focus on services for adolescent girls that are involved in 76403
or at risk of involvement with the juvenile justice system. 76404

Section 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND 76405
DEVELOPMENTAL DISABILITIES 76406

Section 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE 76407
SERVICES 76408

General Revenue Fund 76409

GRF 320-321 Central Administration \$ 9,357,877 \$ 9,357,874 76410

GRF 320-412 Protective Services \$ 2,463,000 \$ 2,463,000 76411

GRF 320-415 Lease-Rental Payments \$ 23,296,200 \$ 23,833,600 76412

TOTAL GRF General Revenue Fund \$ 35,117,077 \$ 35,654,474 76413

General Services Fund Group 76414

4B5 320-640 Conference/Training \$ 300,000 \$ 300,000 76415

TOTAL GSF General Services 76416

Fund Group \$ 300,000 \$ 300,000 76417

Federal Special Revenue Fund Group 76418

3A4 320-605 Administrative Support \$ 13,492,892 \$ 13,492,892 76419

3A5 320-613 DD Council Operating \$ 895,440 \$ 895,440 76420

Expenses 76421

325 320-634 Protective Services \$ 100,000 \$ 100,000 76422

TOTAL FED Federal Special Revenue 76423

Fund Group \$ 14,488,332 \$ 14,488,332 76424

State Special Revenue Fund Group 76425

5S2 590-622 Medicaid \$ 8,000,000 \$ 8,000,000 76426

Administration &

Oversight

TOTAL SSR State Special Revenue 76427

Fund Group \$ 8,000,000 \$ 8,000,000 76428

TOTAL ALL GENERAL ADMINISTRATION				76429
AND STATEWIDE SERVICES				76430
BUDGET FUND GROUPS	\$	57,905,409	\$ 58,442,806	76431
LEASE-RENTAL PAYMENTS				76432
The foregoing appropriation item 320-415, Lease-Rental				76433
Payments, shall be used to meet all payments at the times they are				76434
required to be made during the period from July 1, 2005, to June				76435
30, 2007, by the Department of Mental Retardation and				76436
Developmental Disabilities under leases and agreements made under				76437
section 154.20 of the Revised Code, but limited to the aggregate				76438
amount of \$47,129,800. Nothing in this act shall be deemed to				76439
contravene the obligation of the state to pay, without necessity				76440
for further appropriation, from the sources pledged thereto, the				76441
bond service charges on obligations issued under section 154.20 of				76442
the Revised Code.				76443
Section 209.09.06. COMMUNITY SERVICES				76444
General Revenue Fund				76445
GRF 322-405 State Use Program	\$	268,040	\$ 268,040	76446
GRF 322-413 Residential and	\$	7,423,021	\$ 7,423,021	76447
Support Services				
GRF 322-416 Waiver State Match	\$	103,090,738	\$ 104,397,504	76448
GRF 322-417 Supported Living	\$	43,160,198	\$ 43,160,198	76449
GRF 322-451 Family Support	\$	6,938,898	\$ 6,938,898	76450
Services				
GRF 322-452 Service and Support	\$	8,672,730	\$ 8,672,730	76451
Administration				
GRF 322-501 County Boards	\$	32,193,542	\$ 32,193,542	76452
Subsidies				
GRF 322-503 Tax Equity	\$	14,500,000	\$ 14,500,000	76453
TOTAL GRF General Revenue Fund	\$	216,247,167	\$ 217,553,933	76454
General Services Fund Group				76455

4U4	322-606	Community MR and DD Trust	\$	300,000	\$	50,000	76456
4V1	322-611	Family and Children First	\$	625,000	\$	625,000	76457
488	322-603	Provider Audit Refunds	\$	350,000	\$	350,000	76458
TOTAL GSF General Services							76459
Fund Group			\$	1,275,000	\$	1,025,000	76460
Federal Special Revenue Fund Group							76461
3A4	322-605	Community Program Support	\$	1,500,000	\$	1,500,000	76462
3A5	322-613	DD Council Grants	\$	3,204,240	\$	3,204,240	76463
3G6	322-639	Medicaid Waiver	\$	373,772,814	\$	373,772,814	76464
3M7	322-650	CAFS Medicaid	\$	125,924,299	\$	103,773,730	76465
325	322-608	Grants for Infants and Families with Disabilities	\$	1,763,165	\$	1,763,165	76466
325	322-612	Community Social Service Programs	\$	11,500,000	\$	11,500,000	76467
TOTAL FED Federal Special Revenue							76468
Fund Group			\$	517,664,518	\$	495,513,949	76469
State Special Revenue Fund Group							76470
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	76471
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	76472
5Z1	322-624	County Board Waiver Match	\$	82,000,000	\$	82,000,000	76473
TOTAL SSR State Special Revenue							76474
Fund Group			\$	94,025,000	\$	94,025,000	76475
TOTAL ALL COMMUNITY SERVICES							76476
BUDGET FUND GROUPS			\$	829,211,685	\$	808,117,882	76477
RESIDENTIAL AND SUPPORT SERVICES							76478
The Department of Mental Retardation and Developmental							76479
Disabilities may designate a portion of appropriation item							76480

322-413, Residential and Support Services, for the following: 76481

(A) Sermak Class Services used to implement the requirements 76482
of the agreement settling the consent decree in *Sermak v. Manuel*, 76483
Case No. c-2-80-220, United States District Court for the Southern 76484
District of Ohio, Eastern Division; 76485

(B) Medicaid-reimbursed programs other than home and 76486
community-based waiver services, in an amount not to exceed 76487
\$1,000,000 in each fiscal year, that enable persons with mental 76488
retardation and developmental disabilities to live in the 76489
community. 76490

WAIVER STATE MATCH 76491

The purposes for which the foregoing appropriation item 76492
322-416, Waiver State Match, shall be used include the following: 76493

(A) Home and community-based waiver services under Title XIX 76494
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, 76495
as amended. 76496

(B) Services contracted by county boards of mental 76497
retardation and developmental disabilities. 76498

(C) To pay the nonfederal share of the cost of one or more 76499
new intermediate-care-facility-for-the-mentally-retarded certified 76500
beds in a county where the county board of mental retardation and 76501
developmental disabilities does not initiate or support the 76502
development or certification of such beds, if the Director of 76503
Mental Retardation and Developmental Disabilities is required by 76504
this act to transfer to the Director of Job and Family Services 76505
funds to pay such nonfederal share. 76506

The Department of Mental Retardation and Developmental 76507
Disabilities may designate a portion of appropriation item 76508
322-416, Waiver State Match, to county boards of mental 76509
retardation and developmental disabilities that have greater need 76510

for various residential and support services because of a low 76511
percentage of residential and support services development in 76512
comparison to the number of individuals with mental retardation or 76513
developmental disabilities in the county. 76514

Of the foregoing appropriation item 322-416, Waiver State 76515
Match, \$9,850,000 in each year of the biennium shall be 76516
distributed by the Department to county boards of mental 76517
retardation and developmental disabilities to support existing 76518
residential facilities waiver and individual options waiver 76519
related to Medicaid activities provided for in the component of a 76520
county board's plan developed under division (A)(2) of section 76521
5126.054 of the Revised Code and approved under section 5123.046 76522
of the Revised Code. Up to \$3,000,000 of these funds in each 76523
fiscal year may be used to implement day-to-day program management 76524
services under division (A)(2) of section 5126.054 of the Revised 76525
Code. Up to \$4,200,000 in each fiscal year may be used to 76526
implement the program and health and welfare requirements of 76527
division (A)(2) of section 5126.054 of the Revised Code. 76528

In fiscal years 2006 and 2007 not less than \$2,650,000 of 76529
these funds shall be used to recruit and retain, under division 76530
(A)(2) of section 5126.054 of the Revised Code, the direct care 76531
staff necessary to implement the services included in an 76532
individualized service plan in a manner that ensures the health 76533
and welfare of the individuals being served. 76534

The method utilized by the department to determine each 76535
residential facilities waiver and individual options provider's 76536
allocation of such funds in fiscal year 2005 shall be used for 76537
allocation purposes to such providers in fiscal years 2006 and 76538
2007, respectively. 76539

SUPPORTED LIVING 76540

The purposes for which the foregoing appropriation item 76541

322-417, Supported Living, shall be used include supported living 76542
services contracted by county boards of mental retardation and 76543
developmental disabilities under sections 5126.40 to 5126.47 of 76544
the Revised Code and paying the nonfederal share of the cost of 76545
one or more new 76546
intermediate-care-facility-for-the-mentally-retarded certified 76547
beds in a county where the county board of mental retardation and 76548
developmental disabilities does not initiate or support the 76549
development or certification of such beds, if the Director of 76550
Mental Retardation and Developmental Disabilities is required by 76551
this act to transfer to the Director of Job and Family Services 76552
funds to pay such nonfederal share. 76553

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 76554

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 76555
the Department of Mental Retardation and Developmental 76556
Disabilities may develop residential and support service programs 76557
funded by appropriation item 322-413, Residential and Support 76558
Services; appropriation item 322-416, Waiver State Match; or 76559
appropriation item 322-417, Supported Living, that enable persons 76560
with mental retardation and developmental disabilities to live in 76561
the community. Notwithstanding Chapter 5121. and section 5123.122 76562
of the Revised Code, the Department may waive the support 76563
collection requirements of those statutes for persons in community 76564
programs developed by the Department under this section. The 76565
Department shall adopt rules under Chapter 119. of the Revised 76566
Code or may use existing rules for the implementation of these 76567
programs. 76568

FAMILY SUPPORT SERVICES 76569

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 76570
5126.11 of the Revised Code, the Department of Mental Retardation 76571
and Developmental Disabilities may implement programs funded by 76572

appropriation item 322-451, Family Support Services, to provide 76573
assistance to persons with mental retardation or developmental 76574
disabilities and their families who are living in the community. 76575
The department shall adopt rules to implement these programs. The 76576
department may also use the foregoing appropriation item 322-451, 76577
Family Support Services, to pay the nonfederal share of the cost 76578
of one or more new 76579
intermediate-care-facility-for-the-mentally-retarded certified 76580
beds in a county where the county board of mental retardation and 76581
developmental disabilities initiates or supports the development 76582
or certification of such beds, if the Director of Mental 76583
Retardation and Developmental Disabilities is required by this act 76584
to transfer to the Director of Job and Family Services funds to 76585
pay such nonfederal share. 76586

SERVICE AND SUPPORT ADMINISTRATION 76587

The foregoing appropriation item 322-452, Service and Support 76588
Administration, shall be allocated to county boards of mental 76589
retardation and developmental disabilities for the purpose of 76590
providing service and support administration services and to 76591
assist in bringing state funding for all department-approved 76592
service and support administrators within county boards of mental 76593
retardation and developmental disabilities to the level authorized 76594
in division (C) of section 5126.15 of the Revised Code. The 76595
department may request approval from the Controlling Board to 76596
transfer any unobligated appropriation authority from other state 76597
General Revenue Fund appropriation items within the department's 76598
budget to appropriation item 322-452, Service and Support 76599
Administration, to be used to meet the statutory funding level in 76600
division (C) of section 5126.15 of the Revised Code. 76601

Notwithstanding division (C) of section 5126.15 of the 76602
Revised Code and subject to funding in appropriation item 322-452, 76603
Service and Support Administration, no county may receive less 76604

than its allocation in fiscal year 1995. Wherever case management 76605
services are referred to in any law, contract, or other document, 76606
the reference shall be deemed to refer to service and support 76607
administration. No action or proceeding pending on the effective 76608
date of this section is affected by the renaming of case 76609
management services as service and support administration. 76610

The Department of Mental Retardation and Developmental 76611
Disabilities shall adopt, amend, and rescind rules as necessary to 76612
reflect the renaming of case management services as service and 76613
support administration. All boards of mental retardation and 76614
developmental disabilities and the entities with which they 76615
contract for services shall rename the titles of their employees 76616
who provide service and support administration. All boards and 76617
contracting entities shall make corresponding changes to all 76618
employment contracts. 76619

The Department also may use the foregoing appropriation item 76620
322-452, Service and Support Administration, to pay the nonfederal 76621
share of the cost of one or more new 76622
intermediate-care-facility-for-the-mentally-retarded certified 76623
beds in a county where the county board of mental retardation and 76624
developmental disabilities initiates or supports the development 76625
or certification of such beds, if the Director of Mental 76626
Retardation and Developmental Disabilities is required by this act 76627
to transfer to the Director of Job and Family Services funds to 76628
pay such nonfederal share. 76629

STATE SUBSIDIES TO MR/DD BOARDS 76630

The foregoing appropriation item 322-501, County Boards 76631
Subsidies, shall be distributed to county boards of mental 76632
retardation and developmental disabilities under section 5126.12 76633
of the Revised Code to the limit of the lesser of the amount 76634
required by that section or the appropriation in appropriation 76635

item 322-501, County Boards Subsidies, prorated to all county boards of mental retardation and developmental disabilities. 76636
76637

The Department also may use the foregoing appropriation item 322-501, County Boards Subsidies, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share. 76638
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WAIVER - MATCH 76648

The foregoing appropriation item 322-604, Waiver - Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers. 76649
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COUNTY BOARD WAIVER MATCH 76652

The Director of Mental Retardation and Developmental Disabilities shall transfer, through intrastate transfer vouchers, cash from any allowable General Revenue Fund appropriation item to Fund 5Z1, appropriation item 322-624, County Board Waiver Match. (The amounts being transferred reflect the amounts that county boards pledge from their state General Revenue Funds allocations to cover the cost of providing the non-federal match for waiver services.) 76653
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Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM 76661

(A) As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005. 76662
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76664

(B) The Department of Mental Retardation and Developmental 76665

Disabilities may use funds appropriated to the Department for the purpose of habilitation center services to satisfy a claim or contingent claim for habilitation center services provided before July 1, 2005, if the Department receives the claim or contingent claim before July 1, 2006. The Department has no liability to satisfy either of the following:

(1) A claim for habilitation center services provided before July 1, 2005, if the Department receives the claim on or after July 1, 2006.

(2) A claim for habilitation center services provided on or after July 1, 2005.

(C) The Department of Mental Retardation and Developmental Disabilities may inform individuals who received habilitation center services under the community alternative funding system on June 30, 2005, and such individuals' representatives about alternative services that may be available for the individuals. The Department may require county boards of mental retardation and developmental disabilities to provide such information to the individuals and their representatives.

Section 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a method for recovery of all costs associated with the provisions of these services.

Section 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

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Section 209.09.18. RESIDENTIAL FACILITIES

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General Revenue Fund

76702

GRF 323-321 Residential Facilities \$ 101,764,366 \$ 100,457,600
Operations

76703
76704

TOTAL GRF General Revenue Fund \$ 101,764,366 \$ 100,457,600

76705

General Services Fund Group

76706

152 323-609 Residential Facilities \$ 912,177 \$ 912,177
Support

76707
76708

TOTAL GSF General Services

76709

Fund Group \$ 912,177 \$ 912,177

76710

Federal Special Revenue Fund Group

76711

3A4 323-605 Developmental Center \$ 120,000,000 \$ 120,000,000
Operation Expenses

76712

325 323-608 Foster Grandparent \$ 575,000 \$ 575,000
Program

76713

TOTAL FED Federal Special Revenue

76714

Fund Group \$ 120,575,000 \$ 120,575,000

76715

State Special Revenue Fund Group

76716

221 322-620 Supplement Service \$ 150,000 \$ 150,000
Trust

76717

489 323-632 Developmental Center \$ 12,125,628 \$ 12,125,628
Direct Care Support

76718

TOTAL SSR State Special Revenue

76719

Fund Group \$ 12,275,628 \$ 12,275,628

76720

TOTAL ALL RESIDENTIAL FACILITIES				76721	
BUDGET FUND GROUPS	\$	235,527,171	\$	234,220,405	76722
DEPARTMENT TOTAL				76723	
GENERAL REVENUE FUND	\$	353,128,610	\$	353,666,007	76724
DEPARTMENT TOTAL				76725	
GENERAL SERVICES FUND GROUP	\$	2,487,177	\$	2,237,177	76726
DEPARTMENT TOTAL				76727	
FEDERAL SPECIAL REVENUE FUND GROUP	\$	652,727,850	\$	630,577,281	76728
DEPARTMENT TOTAL				76729	
STATE SPECIAL REVENUE FUND GROUP	\$	114,300,628	\$	114,300,628	76730
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES		\$ 1,122,644,265	\$	1,100,781,093	76733

Section 209.09.21. (A) As used in this section: 76735

(1) "Family support services," "home and community-based services," "service and support administration," and "supported living" have the same meaning as in section 5126.01 of the Revised Code. 76736
76737
76738
76739

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 76740
76741

(B) If one or more new beds obtain certification as an intermediate-care-facility-for-the-mentally-retarded bed on or after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer: 76742
76743
76744
76745
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76748

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and 76749
76750
76751
76752

Developmental Disabilities for home and community-based services 76753
and supported living for which the Director is authorized to make 76754
allocations to county boards; 76755

(2) If the beds are located in a county served by a county 76756
board that initiates or supports the beds' certification, funds 76757
appropriated to the Department for family support services, 76758
service and support administration, and other services for which 76759
the Director is authorized to make allocations to counties. 76760

(C) The funds that the Director transfers under division 76761
(B)(2) of this section shall be funds that the Director has 76762
allocated to the county board serving the county in which the beds 76763
are located unless the amount of the allocation is insufficient to 76764
pay the entire nonfederal share of the cost under the Medicaid 76765
Program for those beds. If the allocation is insufficient, the 76766
Director shall use as much of such funds allocated to other 76767
counties as is needed to make up the difference. 76768

Section 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID 76769
CASE MANAGEMENT SERVICES 76770

A habilitation center holding on June 30, 2005, a valid 76771
certificate issued under former section 5123.041 of the Revised 76772
Code may provide Medicaid case management services until the 76773
earlier of the following: 76774

(A) The date the United States Secretary of Health and Human 76775
Services approves an amendment to the state Medicaid plan that 76776
provides that only county boards of mental retardation and 76777
developmental disabilities may provide Medicaid case management 76778
services; 76779

(B) The habilitation center ceases to meet the requirements 76780
that were in effect on June 30, 2005, for the certificate issued 76781
under former section 5123.041 of the Revised Code. 76782

Section 209.12. MIH COMMISSION ON MINORITY HEALTH			76783
General Revenue Fund			76784
GRF 149-321 Operating Expenses	\$	539,319 \$	539,319 76785
GRF 149-501 Minority Health Grants	\$	670,965 \$	670,965 76786
GRF 149-502 Lupus Program	\$	136,126 \$	136,126 76787
TOTAL GRF General Revenue Fund	\$	1,346,410 \$	1,346,410 76788
Federal Special Revenue Fund Group			76789
3J9 149-602 Federal Grants	\$	150,000 \$	150,000 76790
TOTAL FED Federal Special Revenue			76791
Fund Group	\$	150,000 \$	150,000 76792
State Special Revenue Fund Group			76793
4C2 149-601 Minority Health	\$	250,000 \$	150,000 76794
Conference			
TOTAL SSR State Special Revenue			76795
Fund Group	\$	250,000 \$	150,000 76796
TOTAL ALL BUDGET FUND GROUPS	\$	1,746,410 \$	1,646,410 76797
LUPUS PROGRAM			76798
The foregoing appropriation item 149-502, Lupus Program,			76799
shall be used to provide grants for programs in patient, public,			76800
and professional education on the subject of systemic lupus			76801
erythematosus; to encourage and develop local centers on lupus			76802
information gathering and screening; and to provide outreach to			76803
minority women.			76804
Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR			76805
REGISTRATION BOARD			76806
General Service Fund Group			76807
5H9 865-609 Operating Expenses -	\$	325,047 \$	0 76808
CRB			
TOTAL GSF General Services			76809

Fund Group	\$	325,047	\$	0	76810
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$	0	76811

Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES 76813

General Revenue Fund					76814
GRF 725-404 Fountain Square Rental	\$	1,025,300	\$	1,092,000	76815
Payments - OBA					
GRF 725-407 Conservation Reserve	\$	1,000,000	\$	1,000,000	76816
Enhancement Program					
GRF 725-413 OPFC Lease Rental	\$	18,699,100	\$	20,962,800	76817
Payments					
GRF 725-423 Stream and Ground	\$	311,910	\$	311,910	76818
Water Gauging					
GRF 725-425 Wildlife License	\$	646,319	\$	646,319	76819
Reimbursement					
GRF 725-456 Canal Lands	\$	332,859	\$	332,859	76820
GRF 725-502 Soil and Water	\$	9,836,436	\$	9,836,436	76821
Districts					
GRF 725-903 Natural Resources	\$	25,866,000	\$	24,359,100	76822
General Obligation					
Debt Service					
GRF 727-321 Division of Forestry	\$	8,541,511	\$	8,541,511	76823
GRF 728-321 Division of Geological	\$	1,630,000	\$	1,630,000	76824
Survey					
GRF 729-321 Office of Information	\$	440,895	\$	440,895	76825
Technology					
GRF 730-321 Division of Parks and	\$	37,874,841	\$	39,874,841	76826
Recreation					
GRF 731-321 Office of Coastal	\$	259,707	\$	259,707	76827
Management					
GRF 733-321 Division of Water	\$	3,207,619	\$	3,207,619	76828
GRF 736-321 Division of	\$	3,118,703	\$	3,118,703	76829
Engineering					

GRF 737-321	Division of Soil and Water	\$	4,074,788	\$	4,074,788	76830
GRF 738-321	Division of Real Estate and Land Management	\$	2,291,874	\$	2,291,874	76831
GRF 741-321	Division of Natural Areas and Preserves	\$	3,009,505	\$	3,009,505	76832
GRF 744-321	Division of Mineral Resources Management	\$	3,068,167	\$	3,068,167	76833
TOTAL GRF	General Revenue Fund	\$	125,235,534	\$	128,059,034	76834
	General Services Fund Group					76835
155 725-601	Departmental Projects	\$	2,135,821	\$	2,011,726	76836
157 725-651	Central Support Indirect	\$	6,528,675	\$	6,528,675	76837
204 725-687	Information Services	\$	4,676,627	\$	4,676,627	76838
206 725-689	REALM Support Services	\$	475,000	\$	475,000	76839
207 725-690	Real Estate Services	\$	64,000	\$	64,000	76840
223 725-665	Law Enforcement Administration	\$	2,096,225	\$	2,096,225	76841
227 725-406	Parks Projects Personnel	\$	175,000	\$	110,000	76842
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000	76843
4S9 725-622	NatureWorks Personnel	\$	472,648	\$	307,648	76844
4X8 725-662	Water Resources Council	\$	125,000	\$	125,000	76845
430 725-671	Canal Lands	\$	797,582	\$	847,582	76846
508 725-684	Natural Resources Publications	\$	157,792	\$	157,792	76847
510 725-631	Maintenance - State-owned Residences	\$	260,849	\$	260,849	76848
516 725-620	Water Management	\$	2,442,956	\$	2,459,120	76849
635 725-664	Fountain Square Facilities Management	\$	3,182,223	\$	3,190,223	76850

697	725-670	Submerged Lands	\$	542,011	\$	542,011	76851
TOTAL GSF General Services							76852
Fund Group			\$	24,182,409	\$	23,902,478	76853
Federal Special Revenue Fund Group							76854
3B3	725-640	Federal Forest	\$	150,000	\$	150,000	76855
Pass-Thru							
3B4	725-641	Federal Flood	\$	350,000	\$	350,000	76856
Pass-Thru							
3B5	725-645	Federal Abandoned Mine	\$	14,310,497	\$	14,307,666	76857
Lands							
3B6	725-653	Federal Land and Water	\$	5,000,000	\$	5,000,000	76858
Conservation Grants							
3B7	725-654	Reclamation -	\$	2,107,292	\$	2,107,291	76859
Regulatory							
3P0	725-630	Natural Areas and	\$	315,000	\$	315,000	76860
Preserves - Federal							
3P1	725-632	Geological Survey -	\$	479,651	\$	479,651	76861
Federal							
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912	76862
3P3	725-650	Coastal Management -	\$	1,592,923	\$	1,607,686	76863
Federal							
3P4	725-660	Water - Federal	\$	419,766	\$	420,525	76864
3R5	725-673	Acid Mine Drainage	\$	2,225,000	\$	2,225,000	76865
Abatement/Treatment							
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	76866
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081	76867
332	725-669	Federal Mine Safety	\$	258,102	\$	258,102	76868
Grant							
TOTAL FED Federal Special Revenue							76869
Fund Group			\$	30,963,862	\$	31,395,785	76870
State Special Revenue Fund Group							76871
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957	76872

4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	76873
4U6	725-668	Scenic Rivers Protection	\$	407,100	\$	407,100	76874
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850	76875
5BV	725-683	Soil and Water Districts	\$	1,850,000	\$	1,850,000	76876
5P2	725-634	Wildlife Boater Angler Administration	\$	4,200,000	\$	3,500,000	76877
509	725-602	State Forest	\$	2,291,664	\$	2,591,664	76878
511	725-646	Ohio Geological Mapping	\$	549,310	\$	549,310	76879
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288	76880
512	725-680	Parks Facilities Maintenance	\$	2,576,240	\$	2,576,240	76881
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113	76882
518	725-643	Oil and Gas Permit Fees	\$	2,574,377	\$	2,574,378	76883
518	725-677	Oil and Gas Well Plugging	\$	1,200,000	\$	1,200,000	76884
521	725-627	Off-Road Vehicle Trails	\$	143,490	\$	143,490	76885
522	725-656	Natural Areas Checkoff Funds	\$	1,550,670	\$	1,550,670	76886
526	725-610	Strip Mining Administration Fee	\$	1,932,492	\$	1,932,492	76887
527	725-637	Surface Mining Administration	\$	2,312,815	\$	2,322,702	76888
529	725-639	Unreclaimed Land Fund	\$	623,356	\$	631,257	76889
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$	2,062,237	76890
532	725-644	Litter Control and Recycling	\$	7,100,000	\$	7,100,000	76891
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	76892
615	725-661	Dam Safety	\$	365,223	\$	365,223	76893

TOTAL SSR State Special Revenue				76894
Fund Group	\$	60,387,768	\$ 60,036,971	76895
Clean Ohio Fund Group				76896
061 725-405 Clean Ohio Operating	\$	155,000	\$ 155,000	76897
TOTAL CLF Clean Ohio Fund Group	\$	155,000	\$ 155,000	76898
Wildlife Fund Group				76899
015 740-401 Division of Wildlife Conservation	\$	49,447,500	\$ 50,447,500	76900
815 725-636 Cooperative Management Projects	\$	120,449	\$ 120,449	76901
816 725-649 Wetlands Habitat	\$	966,885	\$ 966,885	76902
817 725-655 Wildlife Conservation Checkoff Fund	\$	5,000,000	\$ 5,000,000	76903
818 725-629 Cooperative Fisheries Research	\$	988,582	\$ 988,582	76904
819 725-685 Ohio River Management	\$	128,584	\$ 128,584	76905
TOTAL WLF Wildlife Fund Group	\$	56,652,000	\$ 57,652,000	76906
Waterways Safety Fund Group				76907
086 725-414 Waterways Improvement	\$	3,792,343	\$ 3,792,343	76908
086 725-418 Buoy Placement	\$	52,182	\$ 52,182	76909
086 725-501 Waterway Safety Grants	\$	137,867	\$ 137,867	76910
086 725-506 Watercraft Marine Patrol	\$	576,153	\$ 576,153	76911
086 725-513 Watercraft Educational Grants	\$	366,643	\$ 366,643	76912
086 739-401 Division of Watercraft	\$	20,027,909	\$ 20,086,681	76913
5AW 725-682 Watercraft Revolving Loans	\$	3,000,000	\$ 1,000,000	76914
TOTAL WSF Waterways Safety Fund Group	\$	27,953,097	\$ 26,011,869	76915
Holding Account Redistribution Fund Group				76917
R17 725-659 Performance Cash Bond	\$	374,263	\$ 374,263	76918

Refunds					
R43	725-624	Forestry	\$ 2,500,000	\$ 1,500,000	76919
TOTAL 090 Holding Account					76920
Redistribution Fund Group					
			\$ 2,874,263	\$ 1,874,263	76921
Accrued Leave Liability Fund Group					76922
4M8	725-675	FOP Contract	\$ 20,844	\$ 20,844	76923
TOTAL ALF Accrued Leave					76924
Liability Fund Group					
			\$ 20,844	\$ 20,844	76925
TOTAL ALL BUDGET FUND GROUPS					76926

Section 209.18.03. CENTRAL SUPPORT INDIRECT 76928

The Department of Natural Resources, with approval of the 76929
Director of Budget and Management, shall utilize a methodology for 76930
determining each division's payments into the Central Support 76931
Indirect Fund (Fund 157). The methodology used shall contain the 76932
characteristics of administrative ease and uniform application in 76933
compliance with federal grant requirements. It may include direct 76934
cost charges for specific services provided. Payments to the 76935
Central Support Indirect Fund (Fund 157) shall be made using an 76936
intrastate transfer voucher. 76937

Section 209.18.06. FOUNTAIN SQUARE 76938

The foregoing appropriation item 725-404, Fountain Square 76939
Rental Payments - OBA, shall be used by the Department of Natural 76940
Resources to meet all payments required to be made to the Ohio 76941
Building Authority during the period from July 1, 2005, to June 76942
30, 2007, pursuant to leases and agreements with the Ohio Building 76943
Authority under section 152.241 of the Revised Code, but limited 76944
to the aggregate amount of \$2,117,300. 76945

The Director of Natural Resources, using intrastate transfer 76946
vouchers, shall make payments to the General Revenue Fund from 76947
funds other than the General Revenue Fund to reimburse the General 76948

Revenue Fund for the other funds' shares of the lease rental 76949
payments to the Ohio Building Authority. The transfers from the 76950
non-General Revenue funds shall be made within 10 days of the 76951
payment to the Ohio Building Authority for the actual amounts 76952
necessary to fulfill the leases and agreements pursuant to section 76953
152.241 of the Revised Code. 76954

The foregoing appropriation item 725-664, Fountain Square 76955
Facilities Management (Fund 635), shall be used for payment of 76956
repairs, renovation, utilities, property management, and building 76957
maintenance expenses for the Fountain Square Complex. Cash 76958
transferred by intrastate transfer vouchers from various 76959
department funds and rental income received by the Department of 76960
Natural Resources shall be deposited into the Fountain Square 76961
Facilities Management Fund (Fund 635). 76962

LEASE RENTAL PAYMENTS 76963

The foregoing appropriation item 725-413, OPFC Lease Rental 76964
Payments, shall be used to meet all payments at the times they are 76965
required to be made during the period from July 1, 2005, to June 76966
30, 2007, by the Department of Natural Resources pursuant to 76967
leases and agreements made under section 154.22 of the Revised 76968
Code, but limited to the aggregate amount of \$50,375,100. Nothing 76969
in this act shall be deemed to contravene the obligation of the 76970
state to pay, without necessity for further appropriation, from 76971
the sources pledged thereto, the bond service charges on 76972
obligations issued pursuant to section 154.22 of the Revised Code. 76973

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 76974

The foregoing appropriation item 725-903, Natural Resources 76975
General Obligation Debt Service, shall be used to pay all debt 76976
service and related financing costs at the times they are required 76977
to be made pursuant to sections 151.01 and 151.05 of the Revised 76978
Code during the period from July 1, 2005, to June 30, 2007. The 76979

Office of the Sinking Fund or the Director of Budget and 76980
Management shall effectuate the required payments by an intrastate 76981
transfer voucher. 76982

Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT 76983

Notwithstanding the limits of the transfer from the General 76984
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 76985
of the Revised Code, up to the amount available in appropriation 76986
item 725-425, Wildlife License Reimbursement, may be transferred 76987
from the General Revenue Fund to the Wildlife Fund (Fund 015). 76988
Pursuant to the certification of the Director of Budget and 76989
Management of the amount of foregone revenue in accordance with 76990
section 1533.15 of the Revised Code, the foregoing appropriation 76991
item in the General Revenue Fund, appropriation item 725-425, 76992
Wildlife License Reimbursement, shall be used to reimburse the 76993
Wildlife Fund (Fund 015) for the cost of hunting and fishing 76994
licenses and permits issued after June 30, 1990, to individuals 76995
who are exempted under the Revised Code from license, permit, and 76996
stamp fees. 76997

CANAL LANDS 76998

The foregoing appropriation item 725-456, Canal Lands, shall 76999
be used to transfer funds to the Canal Lands Fund (Fund 430) to 77000
provide operating expenses for the State Canal Lands Program. The 77001
transfer shall be made using an intrastate transfer voucher and 77002
shall be subject to the approval of the Director of Budget and 77003
Management. 77004

SOIL AND WATER DISTRICTS 77005

In addition to state payments to soil and water conservation 77006
districts authorized by section 1515.10 of the Revised Code, the 77007
Department of Natural Resources may pay to any soil and water 77008
conservation district, from authority in appropriation item 77009

725-502, Soil and Water Districts, an annual amount not to exceed 77010
\$30,000, upon receipt of a request and justification from the 77011
district and approval by the Ohio Soil and Water Conservation 77012
Commission. The county auditor shall credit the payments to the 77013
special fund established under section 1515.10 of the Revised Code 77014
for the local soil and water conservation district. Moneys 77015
received by each district shall be expended for the purposes of 77016
the district. The foregoing appropriation item 725-683, Soil and 77017
Water Districts, shall be expended for the purposes described 77018
above, except that the funding source for this appropriation shall 77019
be a fee applied on the disposal of construction and demolition 77020
debris as provided in section 1515.14 of the Revised Code, as 77021
amended by this act. 77022

Of the foregoing appropriation item 725-502, Soil and Water 77023
Districts, \$25,000 in each fiscal year shall be used for the 77024
Conservation Action Project. 77025

Of the foregoing appropriation item, 725-683, Soil and Water 77026
Districts, \$200,000 in each fiscal year shall be used to support 77027
the Heidelberg College Water Quality Laboratory. 77028

Of the foregoing appropriation item 725-683, Soil and Water 77029
Districts, \$100,000 in each fiscal year shall be used to support 77030
the Muskingum Soil and Water Conservancy. 77031

Of the foregoing appropriation item 725-683, Soil and Water 77032
Districts, \$100,000 in each fiscal year shall be used to support 77033
the Indian Lake Watershed in Logan County. 77034

FUND CONSOLIDATION 77035

The Director of Budget and Management shall transfer an 77036
amount certified by the Director of Natural Resources from the 77037
Central Support Indirect Fund (Fund 157) to the Law Enforcement 77038
Administration Fund (Fund 223) and the Information Services Fund 77039
(Fund 204) to implement a direct cost recovery plan. 77040

STATE PARK DEPRECIATION RESERVE 77041

The foregoing appropriation item 725-635, Parks Facilities 77042
Maintenance, within the Depreciation Reserve Fund (Fund 161), 77043
shall be used by the Division of Parks and Recreation to maintain 77044
state park revenue producing facilities in the best economic 77045
operating condition and to repair and replace equipment used in 77046
the operation of state park revenue producing facilities. 77047

Prior to July 31, 2005, the Director of Budget and Management 77048
shall transfer the cash balance in the Depreciation Reserve Fund 77049
(Fund 161), which is abolished in section 1541.221 of the Revised 77050
Code, as amended by this act, to the State Park Fund (Fund 512), 77051
which is created in section 1541.22 of the Revised Code. 77052

OIL AND GAS WELL PLUGGING 77053

The foregoing appropriation item 725-677, Oil and Gas Well 77054
Plugging, shall be used exclusively for the purposes of plugging 77055
wells and to properly restore the land surface of idle and orphan 77056
oil and gas wells pursuant to section 1509.071 of the Revised 77057
Code. No funds from the appropriation item shall be used for 77058
salaries, maintenance, equipment, or other administrative 77059
purposes, except for those costs directly attributed to the 77060
plugging of an idle or orphan well. Appropriation authority from 77061
this appropriation item shall not be transferred to any other fund 77062
or line item. 77063

LITTER CONTROL AND RECYCLING 77064

Of the foregoing appropriation item, 725-644, Litter Control 77065
and Recycling, not more than \$1,500,000 may be used in each fiscal 77066
year for the administration of the Recycling and Litter Prevention 77067
program. The remaining \$5,600,000 shall be used to provide grants 77068
to local governments. 77069

CLEAN OHIO OPERATING EXPENSES 77070

The foregoing appropriation item 725-405, Clean Ohio 77071
Operating, shall be used by the Department of Natural Resources in 77072
administering section 1519.05 of the Revised Code. 77073

WATERCRAFT MARINE PATROL 77074

Of the foregoing appropriation item 739-401, Division of 77075
Watercraft, not more than \$200,000 in each fiscal year shall be 77076
expended for the purchase of equipment for marine patrols 77077
qualifying for funding from the Department of Natural Resources 77078
pursuant to section 1547.67 of the Revised Code. Proposals for 77079
equipment shall accompany the submission of documentation for 77080
receipt of a marine patrol subsidy pursuant to section 1547.67 of 77081
the Revised Code and shall be loaned to eligible marine patrols 77082
pursuant to a cooperative agreement between the Department of 77083
Natural Resources and the eligible marine patrol. 77084

WATERCRAFT REVOLVING LOAN PROGRAM 77085

Upon certification by the Director of Natural Resources, the 77086
Director of Budget and Management shall transfer an amount not to 77087
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 77088
in fiscal year 2007 so certified from the Waterways Safety Fund 77089
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 77090
moneys shall be used pursuant to section 1547.721 of the Revised 77091
Code. 77092

PARKS CAPITAL EXPENSES FUND 77093

There is hereby created in the state treasury the Parks 77094
Capital Expenses Fund (Fund 227). The fund shall be used to pay 77095
for design, engineering, and planning costs incurred by the 77096
Department of Natural Resources for capital parks projects. 77097

The Director of Natural Resources shall submit to the 77098
Director of Budget and Management the estimated design, 77099
engineering, and planning costs of capital-related work to be done 77100

by Department of Natural Resources staff for parks projects. If 77101
the Director of Budget and Management approves the estimated 77102
costs, the Director may release appropriations from appropriation 77103
item 725-406, Parks Projects Personnel, for those purposes. Upon 77104
release of the appropriations, the Department of Natural Resources 77105
shall pay for these expenses from the Parks Capital Expenses Fund 77106
(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the 77107
Parks and Recreation Improvement Fund (Fund 035) using an 77108
intrastate transfer voucher. 77109

Section 209.21. NUR STATE BOARD OF NURSING 77110

General Services Fund Group 77111
4K9 884-609 Operating Expenses \$ 5,503,280 \$ 5,503,280 77112
5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000 77113
TOTAL GSF General Services 77114
Fund Group \$ 5,508,280 \$ 5,508,280 77115
TOTAL ALL BUDGET FUND GROUPS \$ 5,508,280 \$ 5,508,280 77116

NURSING SPECIAL ISSUES 77117

The foregoing appropriation item 884-601, Nursing Special 77118
Issues (Fund 5P8), shall be used to pay the costs the Board of 77119
Nursing incurs in implementing section 4723.062 of the Revised 77120
Code. 77121

MEDICATION AIDE PILOT PROGRAM 77122

(A) As used in this section: 77123

(1) "Medication" means a drug, as defined in section 4729.01 77124
of the Revised Code. 77125

(2) "Medication error" means a failure to follow the 77126
prescriber's instructions when administering a prescription 77127
medication to a participating resident. 77128

(3) "Nurse" means both of the following: 77129

(a) A registered nurse;	77130
(b) A licensed practical nurse who has completed a course in medication administration approved by the Board of Nursing.	77131 77132
(4) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.	77133 77134
(5) "Participating facility" means a nursing home or residential care facility that has been selected by the Board of Nursing to participate in the Medication Aide Pilot Program and has not had its participation in the Program terminated.	77135 77136 77137 77138
(6) "Prescriber" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.	77139 77140
(7) "Prescription medication" means a drug that may be dispensed only on a prescription.	77141 77142
(B)(1) In consultation with the Medication Aide Pilot Program Council, the Board of Nursing shall establish and conduct the Medication Aide Pilot Program to utilize medication aides to administer medications, including prescription medications, to residents of nursing homes and residential care facilities.	77143 77144 77145 77146 77147
(2) The Medication Aide Pilot Program Council is hereby created. The Council shall consist of the following members:	77148 77149
(a) A registered nurse recommended by the Ohio Nurses Association who is working in long-term care;	77150 77151
(b) A licensed practical nurse recommended by the Licensed Practical Nurse Association of Ohio who is working in long-term care;	77152 77153 77154
(c) A registered nurse recommended by the Ohio Nurses Association who has experience in researching gerontology issues;	77155 77156
(d) An advanced practice nurse recommended by the Ohio Association of Advanced Practice Nurses who has experience in	77157 77158

gerontology;	77159
(e) A representative of the Ohio Health Care Association who is appointed by the Association;	77160 77161
(f) A representative of the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging who is appointed by the Association;	77162 77163 77164
(g) A representative of the Ohio Academy of Nursing Homes who is appointed by the Academy;	77165 77166
(h) A representative of the Ohio Assisted Living Association who is appointed by the Association;	77167 77168
(i) A representative of the Ohio Association of Long Term Care Ombudsmen who is appointed by the Association;	77169 77170
(j) A representative of the Office of State Long-term Care Ombudsperson Program;	77171 77172
(k) A representative of the American Association of Retired Persons who is appointed by the Association;	77173 77174
(l) A representative of facility residents and families of facility residents who is appointed by the Board of Nursing;	77175 77176
(m) A representative of the Ohio Pharmacists Association who is appointed by the Association;	77177 77178
(n) A representative of certified nursing assistants who is appointed by the Department of Health;	77179 77180
(o) A representative of the Department of Health with expertise in the Competency Evaluation Program, as defined in section 3721.21 of the Revised Code, who is appointed by the Department of Health;	77181 77182 77183 77184
(p) A representative of the Department of Job and Family Services who is appointed by the Department of Job and Family Services.	77185 77186 77187

A member or representative of the Board of Nursing shall 77188
serve as chairperson of the Council. Members of the Council shall 77189
receive no compensation for their service on the Council. 77190

(3) The Council shall make recommendations to the Board on 77191
all of the following: 77192

(a) The design of the program; 77193

(b) The content of the training required for medication 77194
aides; 77195

(c) Protection of the health and welfare of residents of 77196
facilities participating in the program; 77197

(d) Whether a medication aide may administer a prescription 77198
medication through a gastrostomy or jejunostomy tube. 77199

(e) The amount and type of training a medication aide needs 77200
to adequately prepare the medication aide to administer a 77201
prescription medication through a gastrostomy or jejunostomy tube. 77202

(C)(1) The Board of Nursing shall operate the Medication Aide 77203
Pilot Program in a manner consistent with human protection and 77204
other ethical concerns typically associated with research studies 77205
involving live subjects. 77206

(2) Within the first six months after the effective date of 77207
this section, the Board, in consultation with the Medication Aide 77208
Pilot Program Council, shall do all of the following: 77209

(a) Design the Program; 77210

(b) Establish standards to govern medication aides and 77211
facilities participating in the Program, including training 77212
requirements for medication aides and staff of participating 77213
facilities; 77214

(c) Establish standards to protect the health and safety of 77215
participating residents; 77216

(d) Select facilities to participate in the Program;	77217
(e) Select an independent evaluator to assess the Program.	77218
(3) The Board shall commence operation of the Program not later than six months after the effective date of this section and operate it for not less than one year.	77219 77220 77221
(D)(1) Notwithstanding divisions (A) and (B) of section 4723.03 of the Revised Code, an individual authorized by the Board of Nursing to participate in the Program as a medication aide may administer medications, including prescription medications, to a participating resident of a nursing home or residential care facility if a nurse has delegated, in accordance with rules for delegation adopted under Chapter 4723. of the Revised Code, responsibility for the administration to the medication aide. A medication aide may administer only the following types of medications:	77222 77223 77224 77225 77226 77227 77228 77229 77230 77231
(a) Oral medications;	77232
(b) Topical medications;	77233
(c) Medications administered as drops to the eye, ear, or nose;	77234 77235
(d) Rectal and vaginal medications.	77236
(2) A medication aide may not do either of the following:	77237
(a) Administer a medication that is a Schedule I or Schedule II controlled substance as those terms are defined in section 3719.01 of the Revised Code;	77238 77239 77240
(b) Administer any medication that requires titration.	77241
(E)(1) An individual seeking to participate in the Program as a medication aide shall apply to the Board on a form provided by the Board. The Board shall authorize the individual to participate in the Program as a medication aide if the individual satisfies	77242 77243 77244 77245

all of the following requirements:	77246
(a) Is a nurse aide who satisfies the requirements of	77247
division (A)(1), (2), (3), (4), (5), (6), or (8) of section	77248
3721.32 of the Revised Code;	77249
(b) Satisfactorily completes a medication aide training	77250
course as described in division (E)(2) of this section;	77251
(c) Pays any fee required by the Board;	77252
(d) Satisfies any other requirements for a medication aide	77253
required by standards established by the Board under division	77254
(C)(2)(b) of this section.	77255
(2) The content of a medication aide training course must	77256
meet the standards established by the Board under division	77257
(C)(2)(b) of this section and include all of the following:	77258
(a) At least sixty clock-hours of instruction;	77259
(b) Classroom instruction on medication administration;	77260
(c) Supervised clinical practice in administration of	77261
prescription medications;	77262
(d) An examination that tests the ability to safely	77263
administer prescription medications.	77264
(3) An individual's authorization to participate in the	77265
Program as a medication aide is valid until the date the Program	77266
ceases to be operated, unless the Board earlier terminates the	77267
individual's authorization to participate in the Program.	77268
(4) The Board of Nursing may deny or terminate an	77269
individual's authorization to participate in the Medication Aide	77270
Pilot Program as a medication aide for reasons specified by the	77271
Board.	77272
(F)(1) Notwithstanding division (D) of section 4723.03 of the	77273
Revised Code, a participating facility may, during the period the	77274

Program is operated, utilize one or more medication aides to 77275
administer medications, including prescription medications, to the 77276
facility's participating residents. 77277

(2) The Board of Nursing shall select eighty nursing homes 77278
and forty residential care facilities from the nursing homes and 77279
residential care facilities that volunteer to participate in the 77280
program. A nursing home or residential care facility may apply by 77281
submitting a form provided by the Board. To be eligible to 77282
participate in the Program, a facility must meet all of the 77283
following requirements: 77284

(a) Agree to observe the standards established by the Board 77285
under division (C)(2)(b) of this section; 77286

(b)(i) In the case of a nursing home, have not been found in 77287
the two most recent surveys or inspections of the home to have 77288
provided substandard care to a resident or to have had 77289
deficiencies with regard to the administration of medication. 77290

(ii) In the case of a residential care facility, be free of 77291
deficiencies related to the provision of skilled care or the 77292
administration of medication. 77293

(3) The Board may terminate a participating facility's 77294
participation in the Program on receipt of evidence the Board 77295
finds credible that the facility's continued participation in the 77296
Program poses an imminent danger, risk of serious harm, or 77297
jeopardy to a participating resident. 77298

(G) No person employed by a participating facility who 77299
reports in good faith a medication error at a participating 77300
facility shall be subject to criminal liability or disciplinary 77301
action or be liable in damages to any person or government entity 77302
in a civil action for injury, death, or loss to person or property 77303
resulting from the reporting of the medication error. 77304

(H) The independent evaluator selected by the Board shall do all of the following: 77305
 77306

(1) Assess whether medication aides are able to safely administer medications, including prescription medications, to nursing home and residential care facility residents; 77307
 77308
 77309

(2) Determine the financial implications of nursing homes and residential care facilities utilizing medication aides; 77310
 77311

(3) Prepare and submit a report of its findings to the Board and the Council. 77312
 77313

(I) The Board of Nursing, with the assistance of the Medication Aide Pilot Program Council, shall prepare, or cause to be prepared, a final report on the Program that includes an examination of the Program's safety and financial implications. 77314
 77315
 77316
 77317
 The report shall be submitted not later than two years after the effective date of this section to each of the following: 77318
 77319

(1) The Governor; 77320

(2) The President and Minority Leader of the Senate; 77321

(3) The Speaker and Minority Leader of the House of Representatives; 77322
 77323

(4) The Director of Health. 77324

Section 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD 77325
 77326

General Services Fund Group 77327

4K9 890-609 Operating Expenses	\$	824,057	\$	0	77328
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TOTAL GSF General Services Fund	\$	824,057	\$	0	77329
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	824,057	\$	0	77330
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Section 209.30. ODB OHIO OPTICAL DISPENSERS BOARD 77332

General Services Fund Group				77333
4K9 894-609 Operating Expenses	\$	316,517	\$	0 77334
TOTAL GSF General Services				77335
Fund Group	\$	316,517	\$	0 77336
TOTAL ALL BUDGET FUND GROUPS	\$	316,517	\$	0 77337

Section 209.33. OPT STATE BOARD OF OPTOMETRY 77339

General Services Fund Group				77340
4K9 885-609 Operating Expenses	\$	336,771	\$	0 77341
TOTAL GSF General Services				77342
Fund Group	\$	336,771	\$	0 77343
TOTAL ALL BUDGET FUND GROUPS	\$	336,771	\$	0 77344

Section 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, 77346
AND PEDORTHICS 77347

General Services Fund Group				77348
4K9 973-609 Operating Expenses	\$	99,571	\$	0 77349
TOTAL GSF General Services				77350
Fund Group	\$	99,571	\$	0 77351
TOTAL ALL BUDGET FUND GROUPS	\$	99,571	\$	0 77352

Section 209.39. PBR STATE PERSONNEL BOARD OF REVIEW 77353

General Revenue Fund				77354
GRF 124-321 Operating	\$	1,116,170	\$	1,148,000 77355
TOTAL GRF General Revenue Fund	\$	1,116,170	\$	1,148,000 77356
General Services Fund Group				77357
636 124-601 Transcript and Other	\$	12,000	\$	15,000 77358
TOTAL GSF General Services				77359
Fund Group	\$	12,000	\$	15,000 77360
TOTAL ALL BUDGET FUND GROUPS	\$	1,128,170	\$	1,163,000 77361

TRANSCRIPT AND OTHER 77362

The foregoing appropriation item 124-601, Transcript and 77363
 Other, may be used to defray the costs of producing an 77364
 administrative record. 77365

Section 209.42. PRX STATE BOARD OF PHARMACY 77366

General Services Fund Group 77367
 4A5 887-605 Drug Law Enforcement \$ 75,550 \$ 75,550 77368
 4K9 887-609 Operating Expenses \$ 5,650,537 \$ 5,400,537 77369
 TOTAL GSF General Services 77370
 Fund Group \$ 5,726,087 \$ 5,476,087 77371
 TOTAL ALL BUDGET FUND GROUPS \$ 5,726,087 \$ 5,476,087 77372

Section 209.45. PSY STATE BOARD OF PSYCHOLOGY 77374

General Services Fund Group 77375
 4K9 882-609 Operating Expenses \$ 566,112 \$ 0 77376
 TOTAL GSF General Services 77377
 Fund Group \$ 566,112 \$ 0 77378
 TOTAL ALL BUDGET FUND GROUPS \$ 566,112 \$ 0 77379

Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION 77381

General Revenue Fund 77382
 GRF 019-321 Public Defender \$ 1,295,570 \$ 1,262,439 77383
 Administration
 GRF 019-401 State Legal Defense \$ 5,744,601 \$ 5,704,117 77384
 Services
 GRF 019-403 Multi-County: State \$ 823,620 \$ 823,620 77385
 Share
 GRF 019-404 Trumbull County - \$ 256,380 \$ 256,380 77386
 State Share
 GRF 019-405 Training Account \$ 31,324 \$ 31,324 77387
 GRF 019-501 County Reimbursement \$ 30,000,000 \$ 30,000,000 77388
 TOTAL GRF General Revenue Fund \$ 38,151,495 \$ 38,077,880 77389

General Services Fund Group				77390
101 019-602 Inmate Legal	\$	53,086	\$ 32,338	77391
Assistance				
406 019-603 Training and	\$	16,000	\$ 16,000	77392
Publications				
407 019-604 County Representation	\$	186,146	\$ 188,810	77393
408 019-605 Client Payments	\$	614,027	\$ 762,106	77394
TOTAL GSF General Services				77395
Fund Group	\$	869,259	\$ 999,254	77396
Federal Special Revenue Fund Group				77397
3S8 019-608 Federal Representation	\$	380,484	\$ 315,287	77398
TOTAL FED Federal Special Revenue				77399
Fund Group	\$	380,484	\$ 315,287	77400
State Special Revenue Fund Group				77401
4C7 019-601 Multi-County: County	\$	2,028,309	\$ 2,104,367	77402
Share				
4X7 019-610 Trumbull County -	\$	642,106	\$ 665,860	77403
County Share				
574 019-606 Legal Services	\$	16,575,000	\$ 21,300,000	77404
Corporation				
TOTAL SSR State Special Revenue				77405
Fund Group	\$	19,245,415	\$ 24,070,227	77406
TOTAL ALL BUDGET FUND GROUPS	\$	58,646,653	\$ 63,462,648	77407
INDIGENT DEFENSE OFFICE				77408
The foregoing appropriation items 019-404, Trumbull County -				77409
State Share, and 019-610, Trumbull County - County Share, shall be				77410
used to support an indigent defense office for Trumbull County.				77411
MULTI-COUNTY OFFICE				77412
The foregoing appropriation items 019-403, Multi-County:				77413
State Share, and 019-601, Multi-County: County Share, shall be				77414
used to support the Office of the Ohio Public Defender's				77415

Multi-County Branch Office Program.				77416	
TRAINING ACCOUNT				77417	
The foregoing appropriation item 019-405, Training Account,				77418	
shall be used by the Ohio Public Defender to provide legal				77419	
training programs at no cost for private appointed counsel who				77420	
represent at least one indigent defendant at no cost and for state				77421	
and county public defenders and attorneys who contract with the				77422	
Ohio Public Defender to provide indigent defense services.				77423	
FEDERAL REPRESENTATION				77424	
The foregoing appropriation item 019-608, Federal				77425	
Representation, shall be used to receive reimbursements from the				77426	
federal courts when the Ohio Public Defender provides				77427	
representation in federal court cases and to support				77428	
representation in such cases.				77429	
Section 209.51. DHS DEPARTMENT OF PUBLIC SAFETY				77430	
General Revenue Fund				77431	
GRF 763-403 Operating Expenses -	\$	4,164,697	\$	4,164,697	77432
EMA					
GRF 763-507 Individual and	\$	650,000	\$	650,000	77433
Households Program -					
State					
GRF 768-424 Operating Expenses -	\$	965,899	\$	1,276,192	77434
CJS					
GRF 769-321 Food Stamp Trafficking	\$	752,000	\$	752,000	77435
Enforcement Operations					
TOTAL GRF General Revenue Fund	\$	6,532,596	\$	6,842,889	77436
General Services Fund Group					77437
4P6 768-601 Justice Program	\$	100,000	\$	100,000	77438
Services					
TOTAL GSF General Services Fund	\$	100,000	\$	100,000	77439

Group

Federal Special Revenue Fund Group				77440
3L5 768-604 Justice Program	\$	31,019,750	\$ 25,214,623	77441
3V8 768-605 Federal Program	\$	50,000	\$ 0	77442
Purposes FFY01				
TOTAL FED Federal Special Revenue	\$	31,069,750	\$ 25,214,623	77443

Fund Group

State Special Revenue Fund Group				77444
XXX 768-XXX Public Safety Services	\$	100,000	\$ 200,000	77445
5BK 768-689 Family Violence	\$	500,000	\$ 650,000	77446
Shelter Programs				
5B9 766-632 PI & Security Guard	\$	1,888,716	\$ 1,188,716	77447
Provider				
TOTAL SSR State Special Revenue	\$	1,788,716	\$ 2,038,716	77448

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	39,491,062	\$ 34,196,228	77449
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OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT 77450

Of the foregoing appropriation item 763-403, Operating 77451
 Expenses - EMA, \$200,000 in each fiscal year shall be used to fund 77452
 the Ohio Task Force One - Urban Search and Rescue Unit and other 77453
 urban search and rescue programs around the state to create a 77454
 stronger search and rescue capability statewide. 77455

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 77456

The foregoing appropriation item 763-507, Individual and 77457
 Households Program - State, shall be used to fund the state share 77458
 of costs to provide grants to individuals and households in cases 77459
 of disaster. 77460

TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE 77461
 DEPARTMENT OF PUBLIC SAFETY 77462

(A) On July 1, 2005: 77463

(1) The Office of Criminal Justice Services shall cease to exist. The employees of the Office of Criminal Justice Services who were employed by that Office on June 30, 2005, are transferred on that date to the Division of Criminal Justice Services in the Department of Public Safety. The vehicles and equipment assigned to those employees are transferred to the Division of Criminal Justice Services.

(2) The assets, liabilities, other equipment not provided for, and records, irrespective of form or medium, of the Office of Criminal Justice Services are transferred to the Division of Criminal Justice Services. The Division of Criminal Justice Services is the successor to, assumes the obligations of, and otherwise constitutes the continuation of the Office of Criminal Justice Services.

(3) Business commenced but not completed by the Office of Criminal Justice Services on July 1, 2005, shall be completed by the Division of Criminal Justice Services, in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section but shall be administered by the Division of Criminal Justice Services.

(4) The rules, orders, and determinations pertaining to the Office of Criminal Justice Services continue in effect as rules, orders, and determinations of the Division of Criminal Justice Services until modified or rescinded by that Division.

(5) No judicial or administrative action or proceeding pending on July 1, 2005, is affected by the transfer of functions from the Office of Criminal Justice Services to the Division of Criminal Justice Services and shall be prosecuted or defended in the name of the Executive Director or Division of Criminal Justice

Services. On application to the court or other tribunal, the 77495
Executive Director or Division of Criminal Justice Services shall 77496
be substituted as a party in those actions and proceedings. 77497

(6) When the Director or Office of Criminal Justice Services 77498
is referred to in any statute, rule, contract, grant, or other 77499
document, the reference is hereby deemed to refer to the Executive 77500
Director or Division of Criminal Justice Services. 77501

(B) On and after July 1, 2005, if necessary to ensure the 77502
integrity of the numbering of the Administrative Code, the 77503
Director of the Legislative Service Commission shall renumber the 77504
rules of the Office of Criminal Justice Services to reflect their 77505
transfer to the Division of Criminal Justice Services in the 77506
Department of Public Safety. 77507

(C) On and after July 1, 2005, notwithstanding any provision 77508
of law to the contrary, the Director of Budget and Management is 77509
authorized to take the actions described in this section with 77510
respect to budget changes made necessary by administrative 77511
reorganization, program transfers, the creation of new funds, and 77512
the consolidation of funds as authorized by this act. The Director 77513
may make any transfer of cash balances between funds. At the 77514
request of the Director of Budget and Management, the 77515
administering agency head shall certify to the Director an 77516
estimate of the amount of the cash balance to be transferred to 77517
the receiving fund. The Director may transfer the estimated amount 77518
when needed to make payments. Not more than thirty days after 77519
certifying the estimated amount, the administering agency head 77520
shall certify the final amount to the Director. The Director shall 77521
transfer the difference between any amount previously transferred 77522
and the certified final amount. The Director may cancel 77523
encumbrances and re-establish encumbrances or parts of 77524
encumbrances as needed in fiscal year 2006 in the appropriate fund 77525
and appropriation item for the same purpose and to the same 77526

vendor. As determined by the Director, the appropriation authority 77527
necessary to re-establish those encumbrances in fiscal year 2006 77528
in a different fund or appropriation item within an agency or 77529
between agencies is hereby authorized. The Director shall reduce 77530
each year's appropriation balances by the amount of the 77531
encumbrances canceled in their respective funds and appropriation 77532
items. Any fiscal year 2005 unencumbered or unallocated 77533
appropriation balances may be transferred to the appropriate item 77534
to be used for the same purposes, as determined by the Director. 77535

(D) Any advisory committees appointed by the Governor to 77536
assist the Office of Criminal Justice Services pursuant to section 77537
181.53 and existing on June 30, 2005, shall continue to exist as 77538
advisory committees to the Division of Criminal Justice Services 77539
in the Department of Public Safety beginning on July 1, 2005, 77540
subject to section 121.13 of the Revised Code. 77541

STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY 77542
SERVICES 77543

Notwithstanding section 3737.71 of the Revised Code, in 77544
fiscal year 2006, the Director of Budget and Management shall 77545
transfer \$100,000 in cash from the Department of Commerce's State 77546
Fire Marshal's Fund (Fund 546) to the Department of Public 77547
Safety's Public Safety Services Fund (Fund XXX), which is hereby 77548
created in the state treasury, and in fiscal year 2007, the 77549
Director of Budget and Management shall transfer \$200,000 in cash 77550
from the Department of Commerce's State Fire Marshal's Fund (Fund 77551
546) to the Department of Public Safety's Public Safety Services 77552
Fund (Fund XXX). 77553

The foregoing appropriation item 768-XXX, Public Safety 77554
Services, shall be used by the Department of Public Safety's 77555
Division of Criminal Justice Services to provide a grant of 77556
\$100,000 in fiscal year 2006 and a grant of \$200,000 in fiscal 77557

year 2007 to the City of Warren to assist in providing essential 77558
public safety services to its citizens. 77559

Section 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO 77560

General Services Fund Group 77561

5F6 870-622 Utility and Railroad \$ 31,272,222 \$ 31,272,223 77562
Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 77563

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,238 77564
Regulation

TOTAL GSF General Services 77565

Fund Group \$ 36,800,694 \$ 36,800,694 77566

Federal Special Revenue Fund Group 77567

3V3 870-604 Commercial Vehicle \$ 300,000 \$ 300,000 77568
Information
Systems/Networks

333 870-601 Gas Pipeline Safety \$ 597,957 \$ 597,957 77569

350 870-608 Motor Carrier Safety \$ 7,027,712 \$ 7,027,712 77570

TOTAL FED Federal Special Revenue 77571

Fund Group \$ 7,925,669 \$ 7,925,669 77572

State Special Revenue Fund Group 77573

4A3 870-614 Grade Crossing \$ 1,349,757 \$ 1,349,757 77574
Protection
Devices-State

4L8 870-617 Pipeline Safety-State \$ 187,621 \$ 187,621 77575

4S6 870-618 Hazardous Material \$ 464,325 \$ 464,325 77576
Registration

4S6 870-621 Hazardous Materials \$ 373,346 \$ 373,346 77577
Base State
Registration

4U8 870-620 Civil Forfeitures \$ 284,986 \$ 284,986 77578

559 870-605 Public Utilities \$ 4,000 \$ 4,000 77579

		Territorial					
		Administration					
560	870-607	Special Assessment	\$	100,000	\$	100,000	77580
561	870-606	Power Siting Board	\$	337,210	\$	337,210	77581
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000	77582
661	870-612	Hazardous Materials	\$	900,000	\$	900,000	77583
		Transportation					
		TOTAL SSR State Special Revenue					77584
		Fund Group	\$	4,041,245	\$	4,041,245	77585
		Agency Fund Group					77586
4G4	870-616	Base State	\$	5,600,000	\$	5,600,000	77587
		Registration Program					
		TOTAL AGY Agency Fund Group	\$	5,600,000	\$	5,600,000	77588
		TOTAL ALL BUDGET FUND GROUPS	\$	54,367,608	\$	54,367,608	77589
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT					77590
		The Commercial Vehicle Information Systems and Networks Fund					77591
		is hereby created in the state treasury. The fund shall receive					77592
		funding from the United States Department of Transportation's					77593
		Commercial Vehicle Intelligent Transportation System					77594
		Infrastructure Deployment Program and shall be used to deploy the					77595
		Ohio Commercial Vehicle Information Systems and Networks Project					77596
		and to expedite and improve the safety of motor carrier operations					77597
		through electronic exchange of data by means of on-highway					77598
		electronic systems.					77599
		Section 209.57. PWC PUBLIC WORKS COMMISSION					77600
		General Revenue Fund					77601
GRF	150-904	Conservation General	\$	13,687,300	\$	17,168,800	77602
		Obligation Debt					
		Service					
GRF	150-907	State Capital	\$	160,731,400	\$	172,145,100	77603
		Improvements					

General Obligation				77604	
Debt Service					
TOTAL GRF General Revenue Fund	\$	174,418,700	\$	189,313,900	77605
Clean Ohio Fund Group					77606
056 150-403 Clean Ohio Operating	\$	298,245	\$	311,509	77607
Expenses					
TOTAL 056 Clean Ohio Fund Group	\$	298,245	\$	311,509	77608
TOTAL ALL BUDGET FUND GROUPS	\$	174,716,945	\$	189,625,409	77609
CONSERVATION GENERAL OBLIGATION DEBT SERVICE					77610
The foregoing appropriation item 150-904, Conservation					77611
General Obligation Debt Service, shall be used to pay all debt					77612
service and related financing costs at the times they are required					77613
to be made under sections 151.01 and 151.09 of the Revised Code					77614
during the period from July 1, 2005, to June 30, 2007. The Office					77615
of the Sinking Fund or the Director of Budget and Management shall					77616
effectuate the required payments by intrastate transfer voucher.					77617
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE					77618
The foregoing appropriation item 150-907, State Capital					77619
Improvements General Obligation Debt Service, shall be used to pay					77620
all debt service and related financing costs at the times they are					77621
required to be made under sections 151.01 and 151.08 of the					77622
Revised Code during the period from July 1, 2005, to June 30,					77623
2007. The Office of the Sinking Fund or the Director of Budget and					77624
Management shall effectuate the required payments by intrastate					77625
transfer voucher.					77626
REIMBURSEMENT TO THE GENERAL REVENUE FUND					77627
(A) On or before June 1, 2007, the Director of the Public					77628
Works Commission shall certify to the Director of Budget and					77629
Management the following:					77630
(1) The total amount disbursed from appropriation item					77631

700-409, Farmland Preservation, during the 2005-2007 biennium; and				77632
(2) The amount of interest earnings that have been credited				77633
to the Clean Ohio Conservation Fund (Fund 056) that are in excess				77634
of the amount needed for other purposes as calculated by the				77635
Director of the Public Works Commission.				77636
(B) If the Director of Budget and Management determines under				77637
division (A)(2) of this section that there are excess interest				77638
earnings, the Director of Budget and Management shall, on or				77639
before June 1, 2007, transfer the excess interest earnings to the				77640
General Revenue Fund in an amount equal to the total amount				77641
disbursed under division (A)(1) of this section from the Clean				77642
Ohio Conservation Fund.				77643
CLEAN OHIO OPERATING EXPENSES				77644
The foregoing appropriation item 150-403, Clean Ohio				77645
Operating Expenses, shall be used by the Ohio Public Works				77646
Commission in administering sections 164.20 to 164.27 of the				77647
Revised Code.				77648
Section 209.60. RAC STATE RACING COMMISSION				77649
State Special Revenue Fund Group				77650
5C4 875-607 Simulcast Horse Racing \$ 17,061,489 \$ 17,063,948				77651
Purse				
562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378				77652
563 875-602 Standardbred \$ 3,161,675 \$ 3,161,675				77653
Development Fund				
564 875-603 Quarterhorse \$ 2,000 \$ 2,000				77654
Development Fund				
565 875-604 Racing Commission \$ 4,000,000 \$ 4,000,000				77655
Operating				
TOTAL SSR State Special Revenue				77656
Fund Group \$ 28,867,542 \$ 28,870,001				77657

Holding Account Redistribution Fund Group				77658
R21 875-605 Bond Reimbursements	\$	212,900	\$ 212,900	77659
TOTAL 090 Holding Account				77660
Redistribution				
Fund Group	\$	212,900	\$ 212,900	77661
TOTAL ALL BUDGET FUND GROUPS	\$	29,080,442	\$ 29,082,901	77662
Section 209.63. BOR BOARD OF REGENTS				77664
General Revenue Fund				77665
GRF 235-321 Operating Expenses	\$	3,147,659	\$ 2,966,351	77666
GRF 235-401 Lease Rental Payments	\$	200,619,200	\$ 200,795,300	77667
GRF 235-402 Sea Grants	\$	231,925	\$ 231,925	77668
GRF 235-406 Articulation and Transfer	\$	2,900,000	\$ 2,900,000	77669
GRF 235-408 Midwest Higher Education Compact	\$	90,000	\$ 90,000	77670
GRF 235-409 Information System	\$	1,146,510	\$ 1,175,172	77671
GRF 235-414 State Grants and Scholarship Administration	\$	1,352,811	\$ 1,382,881	77672
GRF 235-415 Jobs Challenge	\$	9,348,300	\$ 0	77673
GRF 235-417 Ohio Learning Network	\$	3,119,496	\$ 3,119,496	77674
GRF 235-418 Access Challenge	\$	63,340,676	\$ 0	77675
GRF 235-420 Success Challenge	\$	52,601,934	\$ 0	77676
GRF 235-428 Appalachian New Economy Partnership	\$	1,076,068	\$ 1,076,068	77677
GRF 235-433 Economic Growth Challenge	\$	20,343,097	\$ 0	77678
GRF 235-434 College Readiness and Access	\$	6,375,975	\$ 7,655,425	77679
GRF 235-435 Teacher Improvement Initiatives	\$	2,597,506	\$ 2,597,506	77680

GRF 235-451	Eminent Scholars	\$	0	\$	1,370,988	77681
GRF 235-455	EnterpriseOhio Network	\$	1,373,941	\$	1,373,941	77682
GRF 235-474	Area Health Education Centers Program Support	\$	1,571,756	\$	1,571,756	77683
GRF 235-501	State Share of Instruction	\$	1,559,096,031	\$	1,718,873,185	77684
GRF 235-502	Student Support Services	\$	795,790	\$	795,790	77685
GRF 235-503	Ohio Instructional Grants	\$	121,151,870	\$	92,496,969	77686
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321	77687
GRF 235-507	OhioLINK	\$	6,887,824	\$	6,887,824	77688
GRF 235-508	Air Force Institute of Technology	\$	1,925,345	\$	1,925,345	77689
GRF 235-510	Ohio Supercomputer Center	\$	4,021,195	\$	4,021,195	77690
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863	77691
GRF 235-513	Ohio University Voinovich Center	\$	286,082	\$	286,082	77692
GRF 235-514	Central State Supplement	\$	10,172,626	\$	0	77693
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,011,271	\$	3,011,271	77694
GRF 235-520	Shawnee State Supplement	\$	1,817,839	\$	0	77695
GRF 235-521	The Ohio State University Glenn Institute	\$	286,082	\$	286,082	77696
GRF 235-524	Police and Fire	\$	171,959	\$	171,959	77697

	Protection				
GRF 235-525	Geriatric Medicine	\$	750,110	\$	0 77698
GRF 235-527	Ohio Aerospace	\$	1,764,957	\$	1,764,957 77699
	Institute				
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000 77700
GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376 77701
GRF 235-534	Student Workforce	\$	2,137,500	\$	2,137,500 77702
	Development Grants				
GRF 235-535	Ohio Agricultural	\$	35,830,188	\$	35,830,188 77703
	Research and				
	Development Center				
GRF 235-543	Ohio College of	\$	250,000	\$	250,000 77704
	Podiatric Medicine				
	Clinic Subsidy				
GRF 235-549	Part-time Student	\$	14,457,721	\$	10,534,617 77705
	Instructional Grants				
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863 77706
GRF 235-553	Dayton Area Graduate	\$	2,806,599	\$	2,806,599 77707
	Studies Institute				
GRF 235-554	Priorities in	\$	2,355,548	\$	2,355,548 77708
	Collaborative Graduate				
	Education				
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458 77709
GRF 235-556	Ohio Academic	\$	3,727,223	\$	3,727,223 77710
	Resources Network				
GRF 235-558	Long-term Care	\$	211,047	\$	0 77711
	Research				
GRF 235-560	Medical Support	\$	45,931,099	\$	53,686,414 77712
GRF 235-561	Bowling Green State	\$	100,015	\$	100,015 77713
	University Canadian				
	Studies Center				
GRF 235-562	Family Practice and	\$	6,794,158	\$	0 77714
	Primary Care				

	Residencies				
GRF 235-563	Ohio College	\$	0	\$	58,144,139 77715
	Opportunity Grant				
GRF 235-572	The Ohio State	\$	1,277,019	\$	1,277,019 77716
	University Clinic				
	Support				
GRF 235-583	Urban University	\$	4,901,408	\$	4,901,408 77717
	Programs				
GRF 235-587	Rural University	\$	1,033,100	\$	1,033,100 77718
	Projects				
GRF 235-596	Hazardous Materials	\$	310,435	\$	310,435 77719
	Program				
GRF 235-599	National Guard	\$	15,128,472	\$	16,611,063 77720
	Scholarship Program				
GRF 235-909	Higher Education	\$	137,600,300	\$	152,114,100 77721
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$	2,467,953,448	\$	2,516,504,717 77722
	General Services Fund Group				77723
220 235-614	Program Approval and	\$	400,000	\$	400,000 77724
	Reauthorization				
456 235-603	Sales and Services	\$	700,000	\$	900,000 77725
TOTAL GSF	General Services				77726
Fund Group		\$	1,100,000	\$	1,300,000 77727
	Federal Special Revenue Fund Group				77728
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000 77729
3H2 235-622	Medical Collaboration	\$	3,346,143	\$	3,346,143 77730
	Network				
3N6 235-605	State Student	\$	2,196,680	\$	2,196,680 77731
	Incentive Grants				
3T0 235-610	National Health	\$	150,001	\$	150,001 77732
	Service Corps - Ohio				

		Loan Repayment					
312	235-609	Tech Prep	\$	183,850	\$	183,850	77733
312	235-611	Gear-up Grant	\$	1,370,691	\$	1,370,691	77734
312	235-612	Carl D. Perkins	\$	112,960	\$	112,960	77735
		Grant/Plan					
		Administration					
312	235-615	Professional	\$	523,129	\$	523,129	77736
		Development					
312	235-617	Improving Teacher	\$	2,900,000	\$	2,900,000	77737
		Quality Grant					
312	235-619	Ohio Supercomputer	\$	6,000,000	\$	6,000,000	77738
		Center					
312	235-621	Science Education	\$	1,686,970	\$	1,686,970	77739
		Network					
312	235-631	Federal Grants	\$	250,590	\$	250,590	77740
		TOTAL FED Federal Special Revenue					77741
		Fund Group	\$	20,221,014	\$	20,221,014	77742
		State Special Revenue Fund Group					77743
4E8	235-602	Higher Educational	\$	55,000	\$	55,000	77744
		Facility Commission					
		Administration					
4P4	235-604	Physician Loan	\$	476,870	\$	476,870	77745
		Repayment					
649	235-607	The Ohio State	\$	760,000	\$	760,000	77746
		University					
		Highway/Transportation					
		Research					
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	77747
		TOTAL SSR State Special Revenue					77748
		Fund Group	\$	2,184,870	\$	2,184,870	77749
		TOTAL ALL BUDGET FUND GROUPS	\$	2,491,459,332	\$	2,540,210,601	77750
		Section 209.63.03. OPERATING EXPENSES					77752

Of the foregoing appropriation item 235-321, Operating 77753
Expenses, up to \$150,000 in each fiscal year shall be used in 77754
conjunction with funding provided in the Department of Education 77755
budget under appropriation item 200-427, Academic Standards, to 77756
create Ohio's Partnership for Continued Learning, in consultation 77757
with the Governor's Office. The Partnership, which replaces and 77758
broadens the former Joint Council of the Department of Education 77759
and the Board of Regents, shall advise and make recommendations to 77760
promote collaboration among relevant state entities in an effort 77761
to help local communities develop coherent and successful "P-16" 77762
learning systems. The Director of Budget and Management may 77763
transfer any unencumbered fiscal year 2006 balance to fiscal year 77764
2007 to support the activities of the Partnership. 77765

Of the foregoing appropriation item 235-321, Operating 77766
Expenses, \$250,000 in fiscal year 2006 shall be used by the Board 77767
of Regents to contract with an independent party to study each 77768
state supported university. The study shall include an examination 77769
of the areas of study at each state university and determine which 77770
areas of study each university excels in providing, and which 77771
areas of study each university is mediocre in providing. The study 77772
shall point to duplication of coursework, inefficiencies, and 77773
provide recommendations for potential centralization. The Board of 77774
Regents shall report the findings of the study to the General 77775
Assembly and the Governor not later than March 31, 2006. 77776

Section 209.63.06. LEASE RENTAL PAYMENTS 77777

The foregoing appropriation item 235-401, Lease Rental 77778
Payments, shall be used to meet all payments at the times they are 77779
required to be made during the period from July 1, 2005, to June 77780
30, 2007, by the Board of Regents under leases and agreements made 77781
under section 154.21 of the Revised Code, but limited to the 77782
aggregate amount of \$401,414,500. Nothing in this act shall be 77783

deemed to contravene the obligation of the state to pay, without
necessity for further appropriation, from the sources pledged
thereto, the bond service charges on obligations issued pursuant
to section 154.21 of the Revised Code.

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Section 209.63.09. SEA GRANTS

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The foregoing appropriation item 235-402, Sea Grants, shall
be disbursed to the Ohio State University and shall be used to
conduct research on fish in Lake Erie.

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Section 209.63.12. ARTICULATION AND TRANSFER

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The foregoing appropriation item 235-406, Articulation and
Transfer, shall be used by the Board of Regents to maintain and
expand the work of the Articulation and Transfer Council to
develop a system of transfer policies to ensure that students at
state institutions of higher education can transfer and have
coursework apply to their majors and degrees at any other state
institution of higher education without unnecessary duplication or
institutional barriers under section 3333.16 of the Revised Code.

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Of the foregoing appropriation item 235-406, Articulation and
Transfer, \$200,000 in each fiscal year shall be used to support
the work of the Articulation and Transfer Council under division
(B) of section 3333.16 of the Revised Code.

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Section 209.63.15. MIDWEST HIGHER EDUCATION COMPACT

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The foregoing appropriation item 235-408, Midwest Higher
Education Compact, shall be distributed by the Board of Regents
under section 3333.40 of the Revised Code.

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Section 209.63.18. INFORMATION SYSTEM

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The foregoing appropriation item 235-409, Information System,

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shall be used by the Board of Regents to operate the higher 77811
education information data system known as the Higher Education 77812
Information System. 77813

Section 209.63.21. STATE GRANTS AND SCHOLARSHIP 77814
ADMINISTRATION 77815

The foregoing appropriation item 235-414, State Grants and 77816
Scholarship Administration, shall be used by the Board of Regents 77817
to administer the following student financial aid programs: Ohio 77818
Instructional Grant, Part-time Student Instructional Grant, Ohio 77819
College Opportunity Grant, Ohio Student Choice Grant, Ohio 77820
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 77821
Education Assistance Loan Program, Student Workforce Development 77822
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 77823
Officers College Memorial Fund, Capitol Scholarship Program, and 77824
any other student financial aid programs created by the General 77825
Assembly. The appropriation item also shall be used to administer 77826
the federal Leveraging Educational Assistance Partnership (LEAP) 77827
and Special Leveraging Educational Assistance Partnership (SLEAP) 77828
programs and other student financial aid programs created by 77829
Congress and to provide fiscal services for the Ohio National 77830
Guard Scholarship Program and the Physician Loan Repayment 77831
Program. 77832

Section 209.63.24. JOBS CHALLENGE 77833

Funds appropriated to the foregoing appropriation item 77834
235-415, Jobs Challenge, shall be distributed to state-assisted 77835
community and technical colleges, regional campuses of 77836
state-assisted universities, and other organizationally distinct 77837
and identifiable member campuses of the EnterpriseOhio Network in 77838
support of noncredit job-related training. In fiscal year 2006, 77839
\$2,770,773 shall be distributed as performance grants to 77840

EnterpriseOhio Network campuses based upon each campus's 77841
documented performance according to criteria established by the 77842
Board of Regents for increasing training and related services to 77843
businesses, industries, and public sector organizations. 77844

Of the foregoing appropriation item 235-415, Jobs Challenge, 77845
\$2,819,345 in fiscal year 2006 shall be allocated to the Targeted 77846
Industries Training Grant Program to attract, develop, and retain 77847
business and industry strategically important to the state's 77848
economy. 77849

Also, in fiscal year 2006, \$3,758,182 shall be allocated to 77850
the Higher Skills Incentives Program to promote and deliver 77851
coordinated, comprehensive training to local employers and to 77852
reward EnterpriseOhio Network campuses for increasing the amount 77853
of non-credit skill upgrading services provided to Ohio employers 77854
and employees. The funds shall be distributed to campuses in 77855
proportion to each campus's share of noncredit job-related 77856
training revenues received by all campuses for the previous fiscal 77857
year. It is the intent of the General Assembly that this Higher 77858
Skills Incentives component of the Jobs Challenge Program reward 77859
campus noncredit job-related training efforts in the same manner 77860
that the Research Challenge Program rewards campuses for their 77861
ability to obtain sponsored research revenues. 77862

Section 209.63.27. OHIO LEARNING NETWORK 77863

The foregoing appropriation item 235-417, Ohio Learning 77864
Network, shall be used by the Board of Regents to support the 77865
continued implementation of the Ohio Learning Network, a statewide 77866
electronic collaborative effort designed to promote degree 77867
completion of students, workforce training of employees, and 77868
professional development through the use of advanced 77869
telecommunications and distance education initiatives. 77870

Section 209.63.30. ACCESS CHALLENGE 77871

In fiscal year 2006, the foregoing appropriation item 77872
235-418, Access Challenge, shall be distributed to Ohio's 77873
state-assisted access colleges and universities. For the purposes 77874
of this allocation, "access campuses" includes state-assisted 77875
community colleges, state community colleges, technical colleges, 77876
Shawnee State University, Central State University, Cleveland 77877
State University, the regional campuses of state-assisted 77878
universities, and, where they are organizationally distinct and 77879
identifiable, the community-technical colleges located at the 77880
University of Cincinnati, Youngstown State University, and the 77881
University of Akron. 77882

The purpose of Access Challenge is to reduce the student 77883
share of costs for resident undergraduates enrolled in lower 77884
division undergraduate courses at Ohio's access campuses. The 77885
long-term goal is to make the student share of costs for these 77886
students equivalent to the student share of costs for resident 77887
undergraduate students enrolled throughout Ohio's public colleges 77888
and universities. Access Challenge appropriations shall be used in 77889
fiscal year 2006 to sustain, as much as possible, the tuition 77890
restraint or tuition reduction that was achieved with Access 77891
Challenge allocations in prior years. 77892

In fiscal year 2006, Access Challenge subsidies shall be 77893
distributed by the Board of Regents to eligible access campuses on 77894
the basis of the average of each campus's share of fiscal year 77895
2003 and 2004 all-terms subsidy-eligible General Studies FTEs. 77896

For purposes of this calculation, Cleveland State 77897
University's enrollments shall be adjusted by the ratio of the sum 77898
of subsidy-eligible lower-division FTE student enrollments 77899
eligible for access funding to the sum of subsidy-eligible General 77900
Studies FTE student enrollments at Central State University and 77901

Shawnee State University, and for the following universities and
their regional campuses: the Ohio State University, Ohio
University, Kent State University, Bowling Green State University,
Miami University, the University of Cincinnati, the University of
Akron, and Wright State University.

Section 209.63.33. SUCCESS CHALLENGE

The foregoing appropriation item 235-420, Success Challenge,
shall be used by the Board of Regents to promote degree completion
by students enrolled at a main campus of a state-assisted
university.

Of the foregoing appropriation item 235-420, Success
Challenge, 66.67 per cent of the appropriation in fiscal year 2006
shall be distributed to state-assisted university main campuses in
proportion to each campus's share of the total statewide
bachelor's degrees granted by university main campuses to
"at-risk" students. In fiscal year 2006, an "at-risk" student
means any undergraduate student who was eligible to receive an
Ohio need-based financial aid award during the past ten years. An
eligible institution shall not receive its share of this
distribution until it has submitted a plan that addresses how the
subsidy will be used to better serve at-risk students and increase
their likelihood of successful completion of a bachelor's degree
program. The Board of Regents shall disseminate to all
state-supported institutions of higher education all such plans
submitted by institutions that received Success Challenge funds.

Of the foregoing appropriation item 235-420, Success
Challenge, 33.33 per cent of the appropriation in fiscal year 2006
shall be distributed to university main campuses in proportion to
each campus's share of the total bachelor's degrees granted by
university main campuses to undergraduate students who completed
their bachelor's degrees in a "timely manner" in the previous

fiscal year. For purposes of this section, "timely manner" means
the normal time it would take for a full-time degree-seeking
undergraduate student to complete the student's degree. Generally,
for such students pursuing a bachelor's degree, "timely manner"
means four years. Exceptions to this general rule shall be
permitted for students enrolled in programs specifically designed
to be completed in a longer time period. The Board of Regents
shall collect data to assess the timely completion statistics by
university main campuses.

Section 209.63.36. APPALACHIAN NEW ECONOMY PARTNERSHIP 77942

The foregoing appropriation item 235-428, Appalachian New
Economy Partnership, shall be distributed to Ohio University to
continue a multi-campus and multi-agency coordinated effort to
link Appalachia to the new economy. Ohio University shall use
these funds to provide leadership in the development and
implementation of initiatives in the areas of entrepreneurship,
management, education, and technology.

Section 209.63.39. ECONOMIC GROWTH CHALLENGE 77950

The foregoing appropriation item 235-433, Economic Growth
Challenge, shall be used to enhance the basic research
capabilities of Ohio's public institutions of higher education,
support improved graduate programs throughout the state, and
promote the transfer of technology developed by colleges and
universities to private industry to further the economic goals of
the state.

Of the foregoing appropriation item 235-433, Economic Growth
Challenge, \$18,000,000 in fiscal year 2006 shall be used for the
Research Incentive Program to enhance the basic research
capabilities of public colleges and universities and accredited
Ohio institutions of higher education holding certificates of

authorization issued under section 1713.02 of the Revised Code, in 77963
order to strengthen academic research for pursuing Ohio's economic 77964
development goals. The Board of Regents, in consultation with the 77965
colleges and universities, shall administer the Research Incentive 77966
Program and utilize a means of matching, on a fractional basis, 77967
external funds attracted in the previous year by institutions for 77968
basic research. The program may include incentives for increasing 77969
the amount of external research funds coming to eligible 77970
institutions and for focusing research efforts upon critical state 77971
needs. Colleges and universities shall submit for review and 77972
approval to the Board of Regents plans for the institutional 77973
allocation of state dollars received through the program. The 77974
institutional plans shall provide the rationale for the allocation 77975
in terms of the strategic targeting of funds for academic and 77976
state purposes, for strengthening research programs, for 77977
increasing the amount of external research funds, and shall 77978
include an evaluation process to provide results of the increased 77979
support. Institutional plans for the use of Research Incentive 77980
funding must demonstrate a significant investment in Third 77981
Frontier activities funded at the institution. For a college or 77982
university with multiple Third Frontier grants, as much as 10% of 77983
that institution's Research Incentive funding may be invested in 77984
Third Frontier Project-related activities. Each institutional plan 77985
for the investment of Research Incentive moneys shall report on 77986
existing, planned, or possible relationships with other state 77987
science and technology programs and funding recipients in order to 77988
further ongoing statewide science and technology collaboration 77989
objectives. The Board of Regents shall submit a biennial report of 77990
progress to the General Assembly. 77991

In fiscal year 2006, each state-assisted doctoral 77992
degree-granting university shall initiate a comprehensive 77993
Innovation Incentive Plan designed to enhance doctoral programs 77994

and areas of research that have the greatest potential to attract 77995
preeminent researchers and build research capacity; enhance 77996
regional or state economic growth by creating new products and 77997
services to be commercialized; and complement Ohio's Third 77998
Frontier Project. 77999

Funding for the Innovation Incentive Program shall be 78000
generated from those universities electing to set aside a portion 78001
of their allocation of the current doctoral reserve as provided in 78002
appropriation item 235-501, State Share of Instruction, and state 78003
matching funds provided in appropriation item 235-433, Economic 78004
Growth Challenge. 78005

Of the foregoing appropriation item 235-433, Economic Growth 78006
Challenge, \$2,343,097 in fiscal year 2006 shall match funds set 78007
aside by the universities for the Innovation Incentive Program. 78008
The set aside begins in fiscal year 2006 and is intended to 78009
increase incrementally over a period of ten years with the goal of 78010
setting aside a total of fifteen per cent of the doctoral reserve 78011
from appropriation item 235-501, State Share of Instruction, by 78012
2016. 78013

The Board of Regents shall use the combined amount of each 78014
participating university's set aside of the doctoral reserve that 78015
has been withheld and the state matching funds earmarked under 78016
appropriation item 235-433, Economic Growth Challenge, to make 78017
awards through a competitive process under the Innovation 78018
Incentive Program. Only universities electing to set aside the 78019
prescribed amount of their allocation of the doctoral reserve are 78020
eligible to compete for and receive Innovation Incentive awards. 78021
The participating universities shall use these awards to 78022
restructure their array of doctoral programs. 78023

Section 209.63.42. COLLEGE READINESS AND ACCESS 78024

Appropriation item 235-434, College Readiness and Access, 78025
shall be used by the Board of Regents to support programs designed 78026
to improve the academic preparation and increase the number of 78027
students that enroll and succeed in higher education such as the 78028
Ohio College Access Network, the state match for the federal 78029
Gaining Early Awareness and Readiness for Undergraduate Program, 78030
and early awareness initiatives. The appropriation item shall also 78031
be used to support innovative statewide strategies to increase 78032
student access and retention for specialized populations, and to 78033
provide for pilot projects that will contribute to improving 78034
access to higher education by specialized populations. The funds 78035
may be used for projects that improve access for nonpublic 78036
secondary students. 78037

Of the foregoing appropriation item 235-434, College 78038
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in 78039
fiscal year 2007 shall be distributed to the Ohio Appalachian 78040
Center for Higher Education at Shawnee State University. The board 78041
of directors of the Center shall consist of the presidents of 78042
Shawnee State University, Ohio University, Belmont Technical 78043
College, Hocking College, Jefferson Community College, Zane State 78044
College, Rio Grande Community College, Southern State Community 78045
College, and Washington State Community College; the dean of one 78046
of the Salem, Tuscarawas, and East Liverpool regional campuses of 78047
Kent State University, as designated by the president of Kent 78048
State University; and a representative of the Board of Regents 78049
designated by the Chancellor. 78050

Of the foregoing appropriation item 235-434, College 78051
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in 78052
fiscal year 2007 shall be distributed to Miami University for the 78053
Student Achievement in Research and Scholarship (STARS) Program. 78054

Of the foregoing appropriation item 235-434, College 78055
Readiness and Access, \$1,574,535 in fiscal year 2006 and 78056

\$2,753,985 in fiscal year 2007 shall be used in conjunction with 78057
funding provided in the Ohio Department of Education budget under 78058
appropriation item 200-431, School Improvement Initiatives, to 78059
support the Early College High School Pilot Program. 78060

Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES 78061

Appropriation item 235-435, Teacher Improvement Initiatives, 78062
shall be used by the Board of Regents to support programs such as 78063
OSI - Discovery and the Centers of Excellence in Mathematics and 78064
Science designed to raise the quality of mathematics and science 78065
teaching in primary and secondary education. 78066

Of the foregoing appropriation item 235-435, Teacher 78067
Improvement Initiatives, \$204,049 in each fiscal year shall be 78068
distributed to the Mathematics and Science Center in Lake County. 78069

Of the foregoing appropriation item 235-435, Teacher 78070
Improvement Initiatives, \$81,619 in each fiscal year shall be 78071
distributed to the Ohio Mathematics and Science Coalition. 78072

Of the foregoing appropriation item 234-435, Teacher 78073
Improvement Initiatives, \$100,000 in each fiscal year shall be 78074
distributed to the Teacher Quality Partnerships study. 78075

Of the foregoing appropriation item 235-435, Teacher 78076
Improvement Initiatives, \$799,871 in each fiscal year shall be 78077
distributed to the Ohio Resource Center for Mathematics, Science, 78078
and Reading. The funds shall be used to support a resource center 78079
for mathematics, science, and reading to be located at a 78080
state-assisted university for the purpose of identifying best 78081
educational practices in primary and secondary schools and 78082
establishing methods for communicating them to colleges of 78083
education and school districts. The Ohio Resource Center for 78084
Mathematics, Science, and Reading shall not make available 78085
resources that are inconsistent with the K-12 science standards 78086

and policies as adopted by the State Board of Education. 78087

Section 209.63.48. EMINENT SCHOLARS 78088

The foregoing appropriation item 235-451, Eminent Scholars, 78089
shall be used by the Ohio Board of Regents to continue the Ohio 78090
Eminent Scholars Program, the purpose of which is to invest 78091
educational resources to address problems that are of vital 78092
statewide significance while fostering the growth in eminence of 78093
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 78094
shall allow Ohio universities to recruit senior faculty members 78095
from outside Ohio who are nationally and internationally 78096
recognized scholars in areas of science and technology that 78097
provide the basic research platforms on which the state's 78098
technology and commercialization efforts are built. Endowment 78099
grants of approximately \$685,494 to state colleges and 78100
universities and nonprofit Ohio institutions of higher education 78101
holding certificates of authorization issued under section 1713.02 78102
of the Revised Code to match endowment gifts from nonstate sources 78103
may be made in accordance with a plan established by the Ohio 78104
Board of Regents. Matching nonstate endowment gifts shall be equal 78105
to the state's endowment grant of approximately \$685,494. The 78106
grants shall have as their purpose attracting and sustaining in 78107
Ohio scholar-leaders of national or international prominence; each 78108
grant shall assist in accelerating state economic growth through 78109
research that provides an essential basic science platform for 78110
commercialization efforts. Such scholar-leaders shall, among their 78111
duties, share broadly the benefits and knowledge unique to their 78112
fields of scholarship to the betterment of Ohio and its people and 78113
collaborate with other state technology programs and program 78114
recipients. 78115

All new Eminent Scholar awards made by the Board of Regents 78116
shall be associated with a Wright Center of Innovation, a 78117

Partnership Award from the Biomedical Research and Technology 78118
Transfer Trust Fund, or a Wright Capital Project. 78119

Section 209.63.51. ENTERPRISEOHIO NETWORK 78120

The foregoing appropriation item 235-455, EnterpriseOhio 78121
Network, shall be allocated by the Board of Regents to continue 78122
increasing the capabilities of the EnterpriseOhio Network to meet 78123
the ongoing training needs of Ohio employers. Funds shall support 78124
multicampus collaboration, best practice dissemination, and 78125
capacity building projects. The Regents Advisory Committee for 78126
Workforce Development, in its advisory role, shall advise in the 78127
development of plans and activities. 78128

Of the foregoing appropriation item 235-455, EnterpriseOhio 78129
Network, \$165,300 in each fiscal year shall be used by the Dayton 78130
Business/Sinclair College Jobs Profiling Program. 78131

Section 209.63.54. AREA HEALTH EDUCATION CENTERS 78132

The foregoing appropriation item 235-474, Area Health 78133
Education Centers Program Support, shall be used by the Board of 78134
Regents to support the medical school regional area health 78135
education centers' educational programs for the continued support 78136
of medical and other health professions education and for support 78137
of the Area Health Education Center Program. 78138

Of the foregoing appropriation item 235-474, Area Health 78139
Education Centers Program Support, \$159,158 in each fiscal year 78140
shall be disbursed to the Ohio University College of Osteopathic 78141
Medicine to operate a mobile health care unit to serve the 78142
southeastern area of the state. 78143

Of the foregoing appropriation item 235-474, Area Health 78144
Education Centers Program Support, \$119,369 in each fiscal year 78145
shall be used to support the Ohio Valley Community Health 78146

Information Network (OVCHIN) project. 78147

Section 209.63.57. STATE SHARE OF INSTRUCTION 78148

As soon as practicable during each fiscal year of the 78149
biennium ending June 30, 2007, in accordance with instructions of 78150
the Board of Regents, each state-assisted institution of higher 78151
education shall report its actual enrollment to the Board of 78152
Regents. 78153

The Board of Regents shall establish procedures required by 78154
the system of formulas set out below and for the assignment of 78155
individual institutions to categories described in the formulas. 78156
The system of formulas establishes the manner in which aggregate 78157
expenditure requirements shall be determined for each of the three 78158
components of institutional operations. In addition to other 78159
adjustments and calculations described below, the subsidy 78160
entitlement of an institution shall be determined by subtracting 78161
from the institution's aggregate expenditure requirements income 78162
to be derived from the local contributions assumed in calculating 78163
the subsidy entitlements. The local contributions for purposes of 78164
determining subsidy support shall not limit the authority of the 78165
individual boards of trustees to establish fee levels. 78166

The General Studies and Technical models shall be adjusted by 78167
the Board of Regents so that the share of state subsidy earned by 78168
those models is not altered by changes in the overall local share. 78169
A lower-division fee differential shall be used to maintain the 78170
relationship that would have occurred between these models and the 78171
baccalaureate models had an assumed share of 37 per cent been 78172
funded. 78173

In defining the number of full-time equivalent (FTE) students 78174
for state subsidy purposes, the Board of Regents shall exclude all 78175
undergraduate students who are not residents of Ohio, except those 78176

charged in-state fees in accordance with reciprocity agreements	78177	
made under section 3333.17 of the Revised Code or employer	78178	
contracts entered into under section 3333.32 of the Revised Code.	78179	
(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT	78180	
(1) INSTRUCTION AND SUPPORT SERVICES	78181	
MODEL	FY 2006	78182
General Studies I	\$ 4,655	78183
General Studies II	\$ 5,135	78184
General Studies III	\$ 6,365	78185
Technical I	\$ 5,926	78186
Technical III	\$ 9,107	78187
Baccalaureate I	\$ 7,160	78188
Baccalaureate II	\$ 8,235	78189
Baccalaureate III	\$ 11,841	78190
Masters and Professional I	\$ 19,088	78191
Masters and Professional II	\$ 20,984	78192
Masters and Professional III	\$ 27,234	78193
Medical I	\$ 29,143	78194
Medical II	\$ 37,172	78195
MPD I	\$ 13,645	78196
(2) STUDENT SERVICES		78197
For this purpose, FTE counts shall be weighted to reflect		78198
differences among institutions in the numbers of students enrolled		78199
on a part-time basis. The student services subsidy per FTE shall		78200
be \$890 in fiscal year 2006 for all models.		78201
(B) PLANT OPERATION AND MAINTENANCE (POM)		78202
(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY		78203
Space undergoing renovation shall be funded at the rate		78204
allowed for storage space.		78205
In the calculation of square footage for each campus, square		78206

footage shall be weighted to reflect differences in space utilization. 78207
78208

The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995. 78209
78210
78211
78212
78213

Only 50 per cent of the space permanently taken out of operation in fiscal year 2006 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory. 78214
78215
78216
78217

The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows: 78218
78219

(a) For each standard room type category shown below, the subsidy-eligible net assignable square feet (NASF) for each campus shall be multiplied by the following rates, and the amounts summed for each campus to determine the total gross square-foot-based POM expenditure requirement: 78220
78221
78222
78223
78224

	FY 2006	
Classrooms	\$5.86	78225 78226
Laboratories	\$7.31	78227
Offices	\$5.86	78228
Audio Visual Data Processing	\$7.31	78229
Storage	\$2.59	78230
Circulation	\$7.39	78231
Other	\$5.86	78232

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to each campus's activity-based POM weight multiplied by the two- or five-year average subsidy-eligible FTEs for all models. 78233
78234
78235
78236

(c) The amounts allocated to models in division (B)(1)(b) of 78237

this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, which shall also be multiplied by the ratio of subsidy-eligible FTE students to total FTEs reported for each model. From this total amount, the amounts for Doctoral I and Doctoral II shall be subtracted to produce the square-foot-based POM subsidy.

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 78246

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for fiscal year 2006.

	FY 2006	
General Studies I	\$ 512	78251
General Studies II	\$ 662	78252
General Studies III	\$1,464	78253
Technical I	\$ 752	78254
Technical III	\$1,343	78255
Baccalaureate I	\$ 639	78256
Baccalaureate II	\$1,149	78257
Baccalaureate III	\$1,262	78258
Masters and Professional I	\$1,258	78259
Masters and Professional II	\$2,446	78260
Masters and Professional III	\$3,276	78261
Medical I	\$1,967	78262
Medical II	\$3,908	78263
MPD I	\$1,081	78264

(b) The sum of the products for each campus determined in division (B)(2)(a) of this section for all models except Doctoral I and Doctoral II for fiscal year 2006 shall be weighted by a factor to reflect sponsored research activity and job training-related public services expenditures to determine the

total activity-based POM subsidy.	78270
(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS	78271
(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS	78272
The calculation of the core subsidy entitlement shall consist	78273
of the following components:	78274
(a) For each campus in fiscal year 2006, the core subsidy	78275
entitlement shall be determined by multiplying the amounts listed	78276
above in divisions (A)(1) and (2) and (B)(2) of this section less	78277
assumed local contributions, by (i) average subsidy-eligible FTEs	78278
for the two-year period ending in the prior year for all models	78279
except Doctoral I and Doctoral II; and (ii) average	78280
subsidy-eligible FTEs for the five-year period ending in the prior	78281
year for all models except Doctoral I and Doctoral II.	78282
(b) In calculating the core subsidy entitlements for Medical	78283
II models only, the Board of Regents shall use the following count	78284
of FTE students:	78285
(i) For those medical schools whose current year enrollment,	78286
including students repeating terms, is below the base enrollment,	78287
the Medical II FTE enrollment shall equal: 65 per cent of the base	78288
enrollment plus 35 per cent of the current year enrollment	78289
including students repeating terms, where the base enrollment is:	78290
The Ohio State University	1010 78291
University of Cincinnati	833 78292
Medical University of Ohio at Toledo	650 78293
Wright State University	433 78294
Ohio University	433 78295
Northeastern Ohio Universities College of	433 78296
Medicine	
(ii) For those medical schools whose current year enrollment,	78297
excluding students repeating terms, is equal to or greater than	78298

the base enrollment, the Medical II FTE enrollment shall equal the 78299
base enrollment plus the FTE for repeating students. 78300

(iii) Students repeating terms may be no more than five per 78301
cent of current year enrollment. 78302

(c) The Board of Regents shall compute the sum of the two 78303
calculations listed in division (C)(1)(a) of this section and use 78304
the greater sum as the core subsidy entitlement. 78305

The POM subsidy for each campus shall equal the greater of 78306
the square-foot-based subsidy or the activity-based POM subsidy 78307
component of the core subsidy entitlement. 78308

(d) The state share of instruction provided for doctoral 78309
students shall be based on a fixed percentage of the total 78310
appropriation. In fiscal year 2006 not more than 10.34 per cent of 78311
the total state share of instruction shall be reserved to 78312
implement the recommendations of the Graduate Funding Commission. 78313
It is the intent of the General Assembly that the doctoral reserve 78314
not exceed 10.34 per cent of the total state share of instruction 78315
to implement the recommendations of the Graduate Funding 78316
Commission. The Board of Regents may reallocate up to two per cent 78317
in fiscal year 2006 of the reserve among the state-assisted 78318
universities on the basis of a quality review as specified in the 78319
recommendations of the Graduate Funding Commission. No such 78320
reallocation shall occur unless the Board of Regents, in 78321
consultation with representatives of state-assisted universities, 78322
determines that sufficient funds are available for this purpose. 78323

The amount so reserved shall be allocated to universities in 78324
proportion to their share of the total number of Doctoral I 78325
equivalent FTEs as calculated on an institutional basis using the 78326
greater of the two-year or five-year FTEs for the period fiscal 78327
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 78328
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 78329

adjusted to reflect the effects of doctoral review and subsequent 78330
changes in Doctoral I equivalent enrollments. For the purposes of 78331
this calculation, Doctoral I equivalent FTEs shall equal the sum 78332
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 78333

If a university participates in the Innovation Incentive 78334
Program outlined in appropriation item 235-433, Economic Growth 78335
Challenge, then the Board of Regents shall withhold 1.5 per cent 78336
in fiscal year 2006 of the participating university's allocation 78337
of the doctoral reserve. This withholding is intended to increase 78338
incrementally with a goal of setting aside 15 per cent of the 78339
total doctoral reserve by fiscal year 2016. 78340

The Board of Regents shall use the combined amount of each 78341
participating university's set aside of the doctoral reserve that 78342
has been withheld and the state matching funds earmarked under 78343
appropriation item 235-433, Economic Growth Challenge, to make 78344
awards through a competitive process under the Innovation 78345
Incentive Program. Only universities electing to set aside the 78346
prescribed amount of their allocation of the doctoral reserve are 78347
eligible to compete for and receive Innovation Incentive awards. 78348
The participating universities shall use these awards to 78349
restructure their array of doctoral programs. 78350

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 78351

In addition to and after the other adjustment noted above, in 78352
fiscal year 2006, no campus shall receive a state share of 78353
instruction allocation that is less than 97 per cent of the prior 78354
year's state share of instruction amount. 78355

(3) REDUCTIONS IN EARNINGS 78356

If the total state share of instruction earnings in fiscal 78357
year 2006 exceeds the total appropriations available for such 78358
purposes, the Board of Regents shall proportionately reduce the 78359
state share of instruction earnings for all campuses by a uniform 78360

percentage so that the system wide sum equals available 78361
appropriations. 78362

(4) CAPITAL COMPONENT DEDUCTION 78363

After all other adjustments have been made, state share of 78364
instruction earnings shall be reduced for each campus by the 78365
amount, if any, by which debt service charged in Am. H.B. No. 748 78366
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 78367
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General 78368
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am. 78369
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds 78370
that campus's capital component earnings. The sum of the amounts 78371
deducted shall be transferred to appropriation item 235-552, 78372
Capital Component, in fiscal year 2006. 78373

(D) EXCEPTIONAL CIRCUMSTANCES 78374

Adjustments may be made to the state share of instruction 78375
payments and other subsidies distributed by the Board of Regents 78376
to state-assisted colleges and universities for exceptional 78377
circumstances. No adjustments for exceptional circumstances may be 78378
made without the recommendation of the Chancellor and the approval 78379
of the Controlling Board. 78380

(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 78381
INSTRUCTION 78382

The standard provisions of the state share of instruction 78383
calculation as described in the preceding sections of temporary 78384
law shall apply to any reductions made to appropriation item 78385
235-501, State Share of Instruction, before the Board of Regents 78386
has formally approved the final allocation of the state share of 78387
instruction funds for fiscal year 2006. 78388

Any reductions made to appropriation item 235-501, State 78389
Share of Instruction, after the Board of Regents has formally 78390

approved the final allocation of the state share of instruction 78391
funds for fiscal year 2006, shall be uniformly applied to each 78392
campus in proportion to its share of the final allocation. 78393

(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 78394

The state share of instruction payments to the institutions 78395
shall be in substantially equal monthly amounts during the fiscal 78396
year, unless otherwise determined by the Director of Budget and 78397
Management pursuant to section 126.09 of the Revised Code. 78398
Payments during the first six months of the fiscal year shall be 78399
based upon the state share of instruction appropriation estimates 78400
made for the various institutions of higher education according to 78401
Board of Regents enrollment estimates. Payments during the last 78402
six months of the fiscal year shall be distributed after approval 78403
of the Controlling Board upon the request of the Board of Regents. 78404

(G) LAW SCHOOL SUBSIDY 78405

The state share of instruction to state-supported 78406
universities for students enrolled in law schools in fiscal year 78407
2006 shall be calculated by using the number of subsidy-eligible 78408
FTE law school students funded by state subsidy in fiscal year 78409
1995 or the actual number of subsidy-eligible FTE law school 78410
students at the institution in the fiscal year, whichever is less. 78411

By January 15, 2006, the General Assembly shall develop a 78412
plan to provide a new, improved state share of instruction formula 78413
and additional itemized appropriations for the Board of Regents 78414
for fiscal year 2007. In anticipation of a new, improved state 78415
share of instruction formula, which shall include a review of the 78416
allocation of courses to the Medical I and Medical II models, and 78417
higher education reform plan to be enacted before fiscal year 78418
2007, the foregoing appropriation item 235-501, State Share of 78419
Instruction, is hereby appropriated. 78420

Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES 78421

Funds appropriated for instructional subsidies at colleges 78422
and universities may be used to provide such branch or other 78423
off-campus undergraduate courses of study and such master's degree 78424
courses of study as may be approved by the Board of Regents. 78425

In providing instructional and other services to students, 78426
boards of trustees of state-assisted institutions of higher 78427
education shall supplement state subsidies by income from charges 78428
to students. Each board shall establish the fees to be charged to 78429
all students, including an instructional fee for educational and 78430
associated operational support of the institution and a general 78431
fee for noninstructional services, including locally financed 78432
student services facilities used for the benefit of enrolled 78433
students. The instructional fee and the general fee shall 78434
encompass all charges for services assessed uniformly to all 78435
enrolled students. Each board may also establish special purpose 78436
fees, service charges, and fines as required; such special purpose 78437
fees and service charges shall be for services or benefits 78438
furnished individual students or specific categories of students 78439
and shall not be applied uniformly to all enrolled students. 78440
Except for the board of trustees of Miami University, in 78441
implementing the pilot tuition restructuring plan recognized in 78442
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 78443
and again recognized by this act, a tuition surcharge shall be 78444
paid by all students who are not residents of Ohio. 78445

The boards of trustees of individual state-assisted 78446
universities, university branch campuses, community colleges, 78447
state community colleges, and technical colleges shall limit 78448
in-state undergraduate instructional and general fee increases for 78449
the 2005-2006 academic year over the amounts charged on January 1, 78450
2005, to no more than six per cent and for the 2006-2007 academic 78451

year to no more than six per cent over the amounts charged for the 78452
prior academic year. The boards of trustees of individual 78453
state-assisted universities, university branch campuses, community 78454
colleges, state community colleges, and technical colleges shall 78455
not authorize combined instructional and general fee increases of 78456
more than six per cent in a single vote. These limitations shall 78457
not apply to increases required to comply with institutional 78458
covenants related to their obligations or to meet unfunded legal 78459
mandates or legally binding obligations incurred or commitments 78460
made prior to the effective date of this section with respect to 78461
which the institution had identified such fee increases as the 78462
source of funds. Any increase required by such covenants and any 78463
such mandates, obligations, or commitments shall be reported by 78464
the Board of Regents to the Controlling Board. These limitations 78465
may also be modified by the Board of Regents, with the approval of 78466
the Controlling Board, to respond to exceptional circumstances as 78467
identified by the Board of Regents. 78468

The board of trustees of a state-assisted institution of 78469
higher education shall not authorize a waiver or nonpayment of 78470
instructional fees or general fees for any particular student or 78471
any class of students other than waivers specifically authorized 78472
by law or approved by the Chancellor. This prohibition is not 78473
intended to limit the authority of boards of trustees to provide 78474
for payments to students for services rendered the institution, 78475
nor to prohibit the budgeting of income for staff benefits or for 78476
student assistance in the form of payment of such instructional 78477
and general fees. This prohibition is not intended to limit the 78478
authority of the board of trustees of Miami University in 78479
providing financial assistance to students in implementing the 78480
pilot tuition restructuring plan recognized in Section 89.05 of 78481
Am. Sub. H.B. 95 of the 125th General Assembly and again 78482
recognized by this act. 78483

Except for Miami University, in implementing the pilot 78484
tuition restructuring plan recognized in Section 89.05 of Am. Sub. 78485
H.B. 95 of the 125th General Assembly and again recognized by this 78486
act, each state-assisted institution of higher education in its 78487
statement of charges to students shall separately identify the 78488
instructional fee, the general fee, the tuition charge, and the 78489
tuition surcharge. Fee charges to students for instruction shall 78490
not be considered to be a price of service but shall be considered 78491
to be an integral part of the state government financing program 78492
in support of higher educational opportunity for students. 78493

In providing the appropriations in support of instructional 78494
services at state-assisted institutions of higher education and 78495
the appropriations for other instruction it is the intent of the 78496
General Assembly that faculty members shall devote a proper and 78497
judicious part of their work week to the actual instruction of 78498
students. Total class credit hours of production per quarter per 78499
full-time faculty member is expected to meet the standards set 78500
forth in the budget data submitted by the Board of Regents. 78501

The authority of government vested by law in the boards of 78502
trustees of state-assisted institutions of higher education shall 78503
in fact be exercised by those boards. Boards of trustees may 78504
consult extensively with appropriate student and faculty groups. 78505
Administrative decisions about the utilization of available 78506
resources, about organizational structure, about disciplinary 78507
procedure, about the operation and staffing of all auxiliary 78508
facilities, and about administrative personnel shall be the 78509
exclusive prerogative of boards of trustees. Any delegation of 78510
authority by a board of trustees in other areas of responsibility 78511
shall be accompanied by appropriate standards of guidance 78512
concerning expected objectives in the exercise of such delegated 78513
authority and shall be accompanied by periodic review of the 78514
exercise of this delegated authority to the end that the public 78515

interest, in contrast to any institutional or special interest, 78516
shall be served. 78517

Section 209.63.63. STUDENT SUPPORT SERVICES 78518

The foregoing appropriation item 235-502, Student Support 78519
Services, shall be distributed by the Board of Regents to Ohio's 78520
state-assisted colleges and universities that incur 78521
disproportionate costs in the provision of support services to 78522
disabled students. 78523

Section 209.63.66. OHIO INSTRUCTIONAL GRANTS 78524

In fiscal year 2006, instructional grants for all eligible 78525
full-time students shall be made using the tables under section 78526
3333.12 of the Revised Code. In fiscal year 2007, instructional 78527
grants for all eligible full-time students who have attended a 78528
college, university, or proprietary school and have completed 78529
coursework for college credit, excluding early college high school 78530
and post secondary enrollment option students, prior to academic 78531
year 2006-2007, shall be made using the tables under section 78532
3333.12 of the Revised Code. 78533

Of the foregoing appropriation item 235-503, Ohio 78534
Instructional Grants, an amount in each fiscal year shall be used 78535
to make the payments authorized by division (C) of section 3333.26 78536
of the Revised Code to the institutions described in that 78537
division. In addition, an amount in each fiscal year shall be used 78538
to reimburse the institutions described in division (B) of section 78539
3333.26 of the Revised Code for the cost of the waivers required 78540
by that division. 78541

The unencumbered balance of appropriation item 235-503, Ohio 78542
Instructional Grants, at the end of fiscal year 2006 shall be 78543
transferred to fiscal year 2007 for use under the same 78544
appropriation item. The amounts transferred are hereby 78545

appropriated. 78546

Section 209.63.69. WAR ORPHANS SCHOLARSHIPS 78547

The foregoing appropriation item 235-504, War Orphans 78548
Scholarships, shall be used to reimburse state-assisted 78549
institutions of higher education for waivers of instructional fees 78550
and general fees provided by them, to provide grants to 78551
institutions that have received a certificate of authorization 78552
from the Ohio Board of Regents under Chapter 1713. of the Revised 78553
Code, in accordance with the provisions of section 5910.04 of the 78554
Revised Code, and to fund additional scholarship benefits provided 78555
by section 5910.032 of the Revised Code. 78556

Section 209.63.72. OHIOLINK 78557

The foregoing appropriation item 235-507, OhioLINK, shall be 78558
used by the Board of Regents to support OhioLINK, the state's 78559
electronic library information and retrieval system, which 78560
provides access statewide to the library holdings of all of Ohio's 78561
public colleges and universities, 40 private colleges, and the 78562
State Library of Ohio. 78563

Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY 78564

The foregoing appropriation item 235-508, Air Force Institute 78565
of Technology, shall be used to strengthen the research and 78566
educational linkages between the Wright Patterson Air Force Base 78567
and institutions of higher education in Ohio. Of the foregoing 78568
appropriation item 235-508, Air Force Institute of Technology, 78569
\$1,233,588 in each fiscal year shall be used for research projects 78570
that connect the Air Force Research Laboratories with university 78571
partners. The institute shall provide annual reports to the Third 78572
Frontier Commission, that discuss existing, planned, or possible 78573
collaborations between programs and funding recipients related to 78574

technology, research development, commercialization, and support 78575
for Ohio's economic development. 78576

Of the foregoing appropriation item 235-508, Air Force 78577
Institute of Technology, \$691,757 in each fiscal year shall be 78578
used to match federal dollars to support technology 78579
commercialization and job creation. The Development Research 78580
Corporation shall use the funds to create or expand Ohio-based 78581
technology and commercial development collaborations in areas that 78582
are a priority in Ohio's third frontier initiative between 78583
industry, academia, and government. 78584

Section 209.63.78. OHIO SUPERCOMPUTER CENTER 78585

The foregoing appropriation item 235-510, Ohio Supercomputer 78586
Center, shall be used by the Board of Regents to support the 78587
operation of the center, located at The Ohio State University, as 78588
a statewide resource available to Ohio research universities both 78589
public and private. It is also intended that the center be made 78590
accessible to private industry as appropriate. Policies of the 78591
center shall be established by a governance committee, 78592
representative of Ohio's research universities and private 78593
industry, to be appointed by the Chancellor of the Board of 78594
Regents and established for this purpose. 78595

The Ohio Supercomputer Center shall report on expanding 78596
solutions-oriented, computational science services to industrial 78597
and other customers, including alignment programs and recipients, 78598
and develop a plan for a computational science initiative in 78599
collaboration with the Wright Centers of Innovation Program. 78600

Section 209.63.81. COOPERATIVE EXTENSION SERVICE 78601

The foregoing appropriation item 235-511, Cooperative 78602
Extension Service, shall be disbursed through the Board of Regents 78603
to The Ohio State University in monthly payments, unless otherwise 78604

determined by the Director of Budget and Management under section 78605
126.09 of the Revised Code. 78606

Of the foregoing appropriation item 235-511, Cooperative 78607
Extension Service, \$178,271 in each fiscal year shall be used for 78608
additional staffing for county agents for expanded 4-H activities. 78609
Of the foregoing appropriation item 235-511, Cooperative Extension 78610
Service, \$178,271 in each fiscal year shall be used by the 78611
Cooperative Extension Service, through the Enterprise Center for 78612
Economic Development in cooperation with other agencies, for a 78613
public-private effort to create and operate a small business 78614
economic development program to enhance the development of 78615
alternatives to the growing of tobacco, and implement, through 78616
applied research and demonstration, the production and marketing 78617
of other high-value crops and value-added products. Of the 78618
foregoing appropriation item 235-511, Cooperative Extension 78619
Service, \$55,179 in each fiscal year shall be used for farm labor 78620
mediation and education programs, \$182,515 in each fiscal year 78621
shall be used to support the Ohio State University Marion 78622
Enterprise Center, and \$772,931 in each fiscal year shall be used 78623
to support the Ohio Watersheds Initiative. 78624

Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER 78625

The foregoing appropriation item 235-513, Ohio University 78626
Voinovich Center, shall be used by the Board of Regents to support 78627
the operations of Ohio University's Voinovich Center. 78628

Section 209.63.87. CENTRAL STATE SUPPLEMENT 78629

The foregoing appropriation item 235-514, Central State 78630
Supplement, shall be used by Central State University to keep 78631
undergraduate fees below the statewide average, consistent with 78632
its mission of service to many first-generation college students 78633
from groups historically underrepresented in higher education and 78634

from families with limited incomes.	78635
Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE	78636 78637
The foregoing appropriation item 235-515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Board of Regents in accordance with agreements entered into under section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.	78638 78639 78640 78641 78642 78643 78644
Section 209.63.96. SHAWNEE STATE SUPPLEMENT	78645
The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:	78646 78647 78648
(A) To allow Shawnee State University to keep its undergraduate fees below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;	78649 78650 78651 78652
(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.	78653 78654 78655
Section 209.63.99. OSU GLENN INSTITUTE	78656
The foregoing appropriation item 235-521, The Ohio State University Glenn Institute, shall be used by the Board of Regents to support the operations of the Ohio State University's Glenn Institute.	78657 78658 78659 78660
Section 209.64.03. POLICE AND FIRE PROTECTION	78661

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 in each fiscal year. Funds shall be distributed according to the method employed by the Board of Regents in the previous biennium.

Section 209.64.06. GERIATRIC MEDICINE

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-525, Geriatric Medicine.

Section 209.64.09. OHIO AEROSPACE INSTITUTE

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

The Board of Regents, in consultation with the Third Frontier Commission, shall develop a plan for providing for appropriate, value-added participation of the Ohio Aerospace Institute in Third Frontier Project proposals and grants.

Section 209.64.12. ACADEMIC SCHOLARSHIPS

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

Section 209.64.15. STUDENT CHOICE GRANTS

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item to maintain grant award amounts in fiscal year 2007 equal to the awards provided in fiscal year 2006. The amounts transferred are hereby appropriated.

Section 209.64.18. STUDENT WORKFORCE DEVELOPMENT GRANTS 78698

The foregoing appropriation item 235-534, Student Workforce Development Grants, shall be used to support the Student Workforce Development Grant Program. The Board of Regents shall distribute grants to each eligible student in an academic year. The size of each grant award shall be determined by the Board of Regents based on the amount of funds available for the program.

Section 209.64.21. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER 78705
78706

The foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the biennium ending June 30, 2007, for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the Center.

The Ohio Agricultural Research and Development Center, an entity of the College of Food, Agricultural, and Environmental Sciences of The Ohio State University, shall further its mission

of enhancing Ohio's economic development and job creation by 78720
continuing to internally allocate on a competitive basis 78721
appropriated funding of programs based on demonstrated 78722
performance. Academic units, faculty, and faculty-driven programs 78723
shall be evaluated and rewarded consistent with agreed-upon 78724
performance expectations as called for in the College's 78725
Expectations and Criteria for Performance Assessment. 78726

Of the foregoing appropriation item 235-535, Ohio 78727
Agricultural Research and Development Center, \$458,410 in each 78728
fiscal year shall be used to purchase equipment. 78729

Of the foregoing appropriation item 235-535, Ohio 78730
Agricultural Research and Development Center, \$806,463 in each 78731
fiscal year shall be distributed to the Piketon Agricultural 78732
Research and Extension Center. 78733

Of the foregoing appropriation item 235-535, Ohio 78734
Agricultural Research and Development Center, \$212,227 in each 78735
fiscal year shall be distributed to the 78736
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio 78737
State University Medical College in cooperation with The Ohio 78738
State University College of Agriculture. 78739

Of the foregoing appropriation item 235-535, Ohio 78740
Agricultural Research and Development Center, \$42,445 in each 78741
fiscal year shall be used to support the Ohio Berry Administrator. 78742

Of the foregoing appropriation item 235-535, Ohio 78743
Agricultural Research and Development Center, \$84,890 in each 78744
fiscal year shall be used for the development of agricultural 78745
crops and products not currently in widespread production in Ohio, 78746
in order to increase the income and viability of family farmers. 78747

Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS 78748

The foregoing appropriation item 235-549, Part-time Student 78749

Instructional Grants, shall be used to support a grant program for 78750
part-time undergraduate students who are Ohio residents and who 78751
were enrolled in degree granting programs prior to academic year 78752
2006-2007. 78753

Eligibility for participation in the program shall include 78754
degree granting educational institutions that hold a certificate 78755
of registration from the State Board of Career Colleges and 78756
Schools, and nonprofit institutions that have a certificate of 78757
authorization issued under Chapter 1713. of the Revised Code, as 78758
well as state-assisted colleges and universities. Grants shall be 78759
given to students on the basis of need, as determined by the 78760
college, which, in making these determinations, shall give special 78761
consideration to single-parent heads-of-household and displaced 78762
homemakers who enroll in an educational degree program that 78763
prepares the individual for a career. In determining need, the 78764
college also shall consider the availability of educational 78765
assistance from a student's employer. It is the intent of the 78766
General Assembly that these grants not supplant such assistance. 78767

Section 209.64.27. CAPITAL COMPONENT 78768

The foregoing appropriation item 235-552, Capital Component, 78769
shall be used by the Board of Regents to implement the capital 78770
funding policy for state-assisted colleges and universities 78771
established in Am. H.B. No. 748 of the 121st General Assembly. 78772
Appropriations from this item shall be distributed to all campuses 78773
for which the estimated campus debt service attributable to new 78774
qualifying capital projects is less than the campus's 78775
formula-determined capital component allocation. Campus 78776
allocations shall be determined by subtracting the estimated 78777
campus debt service attributable to new qualifying capital 78778
projects from the campus's formula-determined capital component 78779
allocation. Moneys distributed from this appropriation item shall 78780

be restricted to capital-related purposes. 78781

Any campus for which the estimated campus debt service 78782
attributable to qualifying capital projects is greater than the 78783
campus's formula-determined capital component allocation shall 78784
have the difference subtracted from its State Share of Instruction 78785
allocation in each fiscal year. The sum of all such amounts shall 78786
be transferred from appropriation item 235-501, State Share of 78787
Instruction, to appropriation item 235-552, Capital Component. 78788

Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE 78789

The foregoing appropriation item 235-553, Dayton Area 78790
Graduate Studies Institute, shall be used by the Board of Regents 78791
to support the Dayton Area Graduate Studies Institute, an 78792
engineering graduate consortium of three universities in the 78793
Dayton area: Wright State University, the University of Dayton, 78794
and the Air Force Institute of Technology, with the participation 78795
of the University of Cincinnati and The Ohio State University. 78796

Of the foregoing appropriation item 235-553, Dayton Area 78797
Graduate Studies Institute, \$417,053 in each fiscal year shall be 78798
used by the Miami Valley Economic Development Research Corporation 78799
to support collaborative research between academia, industry, and 78800
the Air Force for the Wright Brothers Institute and related 78801
initiatives in nanomaterials and advanced data management and 78802
analysis. 78803

Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE 78804
EDUCATION 78805

The foregoing appropriation item 235-554, Priorities in 78806
Collaborative Graduate Education, shall be used by the Board of 78807
Regents to support improvements in graduate programs at 78808
state-assisted universities that the Board of Regents identifies 78809
as vital to the state's economic strategy. Up to \$169,782 in each 78810

fiscal year shall be used to support collaborative efforts in 78811
graduate education in this program area. The collaborative program 78812
shall be coordinated by the Board of Regents. 78813

Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 78814

The foregoing appropriation item 235-556, Ohio Academic 78815
Resources Network, shall be used to support the operations of the 78816
Ohio Academic Resources Network, which shall include support for 78817
Ohio's state-assisted colleges and universities in maintaining and 78818
enhancing network connections. The network shall give priority to 78819
supporting the Third Frontier Network and allocating bandwidth to 78820
programs directly supporting Ohio's economic development. 78821

Section 209.64.39. LONG-TERM CARE RESEARCH 78822

The foregoing appropriation item 235-558, Long-term Care 78823
Research, shall be disbursed to Miami University for long-term 78824
care research. 78825

Section 209.64.42. MEDICAL SUPPORT 78826

The Board of Regents, in consultation with the state-assisted 78827
medical colleges, shall develop performance standards for medical 78828
education. Special emphasis in the standards shall be placed on 78829
attempting to ensure that at least 50 per cent of the aggregate 78830
number of students enrolled in state-assisted medical colleges 78831
continue to enter residency as primary care physicians. Primary 78832
care physicians are general family practice physicians, general 78833
internal medicine practitioners, and general pediatric care 78834
physicians. The Board of Regents shall monitor medical school 78835
performance in relation to their plans for reaching the 50 per 78836
cent system-wide standard for primary care physicians. 78837

Of the foregoing appropriation item 235-560, Medical Support, 78838
\$45,931,099 in fiscal year 2006 shall be used to support clinical 78839

teaching at Ohio's state-assisted colleges of medicine. Of this 78840
amount, The Ohio State University shall receive \$13,565,885 in 78841
fiscal year 2006; University of Cincinnati shall receive 78842
\$11,157,756 in fiscal year 2006; Medical University of Ohio at 78843
Toledo shall receive \$8,696,866 in fiscal year 2006; Wright State 78844
University shall receive \$4,225,107 in fiscal year 2006 and 78845
\$124,644 of this amount in fiscal year 2006 shall be for the use 78846
of Wright State University's Ellis Institute for Clinical Teaching 78847
Studies to operate the clinical facility to serve the Greater 78848
Dayton Area; Ohio University shall receive \$4,084,540 in fiscal 78849
year 2006; and Northeastern Ohio Universities College of Medicine 78850
shall receive \$4,200,945 in fiscal year 2006. These funds shall be 78851
distributed through the Board of Regents. 78852

By January 15, 2006, the General Assembly shall develop a 78853
plan to provide itemized appropriations to the Board of Regents 78854
for medical support programs for fiscal year 2007. In anticipation 78855
of a new, improved allocation of funds for medical support 78856
programs to be enacted before fiscal year 2007, the foregoing 78857
appropriation item 235-560, Medical Support, is hereby 78858
appropriated. 78859

Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN 78860
STUDIES CENTER 78861

The foregoing appropriation item 235-561, Bowling Green State 78862
University Canadian Studies Center, shall be used by the Canadian 78863
Studies Center at Bowling Green State University to study 78864
opportunities for Ohio and Ohio businesses to benefit from the 78865
Free Trade Agreement between the United States and Canada. 78866

Section 209.64.48. FAMILY PRACTICE AND PRIMARY CARE 78867
RESIDENCIES 78868

The Board of Regents shall develop plans consistent with 78869

existing criteria and guidelines as may be required for the 78870
distribution of appropriation item 235-562, Family Practice and 78871
Primary Care Residencies. 78872

Of the foregoing appropriation item 235-562, Family Practice 78873
and Primary Care Residencies, \$4,548,470 in fiscal year 2006 shall 78874
be distributed to Family Practice programs. 78875

Of the foregoing appropriation item 235-562, Family Practice 78876
and Primary Care Residencies, \$2,245,688 in fiscal year 2006 shall 78877
be distributed to Primary Care Residencies, based on whether or 78878
not the institution has submitted and gained approval for a 78879
primary care residency plan. If the institution does not have an 78880
approved plan, it shall receive five per cent less funding per 78881
student than it would have received from its annual allocation. 78882
The remaining funding shall be distributed among those 78883
institutions that meet or exceed their targets. 78884

Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN 78885

The foregoing appropriation item 235-563, Ohio College 78886
Opportunity Grant, shall be used by the Board of Regents to begin 78887
to award needs-based financial aid to students based on the United 78888
States Department of Education's method of determining financial 78889
need. Beginning in fiscal year 2007, students who enrolled in a 78890
public, private, or proprietary post-secondary institution of 78891
higher education for the first time in academic year 2006-2007, 78892
excluding early college high school and post-secondary enrollment 78893
option participants, shall be eligible to receive aid based on 78894
their expected family contributions as calculated by the United 78895
State Department of Education, according to section 3333.122 of 78896
the Revised Code. 78897

Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 78898

The foregoing appropriation item 235-572, The Ohio State 78899

University Clinic Support, shall be distributed through the Board 78900
of Regents to The Ohio State University for support of dental and 78901
veterinary medicine clinics. 78902

Section 209.64.57. URBAN UNIVERSITY PROGRAMS 78903

Universities receiving funds from the foregoing appropriation 78904
item 235-583, Urban University Programs, that are used to support 78905
an ongoing university unit shall certify periodically in a manner 78906
approved by the Board of Regents that program funds are being 78907
matched on a one-to-one basis with equivalent resources. Overhead 78908
support may not be used to meet this requirement. Where Urban 78909
University Program funds are being used to support an ongoing 78910
university unit, matching funds shall come from continuing rather 78911
than one-time sources. At each participating state-assisted 78912
institution of higher education, matching funds shall be within 78913
the substantial control of the individual designated by the 78914
institution's president as the Urban University Program 78915
representative. 78916

Of the foregoing appropriation item 235-583, Urban University 78917
Programs, \$247,453 in each fiscal year shall be used to support a 78918
public communication outreach program (WCPN). The primary purpose 78919
of the program shall be to develop a relationship between 78920
Cleveland State University and nonprofit communications entities. 78921

Of the foregoing appropriation item 235-583, Urban University 78922
Programs, \$117,215 in each fiscal year shall be used to support 78923
the Center for the Interdisciplinary Study of Education and the 78924
Urban Child at Cleveland State University. These funds shall be 78925
distributed according to rules adopted by the Board of Regents and 78926
shall be used by the center for interdisciplinary activities 78927
targeted toward increasing the chance of lifetime success of the 78928
urban child, including interventions beginning with the prenatal 78929
period. The primary purpose of the center is to study issues in 78930

urban education and to systematically map directions for new 78931
approaches and new solutions by bringing together a cadre of 78932
researchers, scholars, and professionals representing the social, 78933
behavioral, education, and health disciplines. 78934

Of the foregoing appropriation item 235-583, Urban University 78935
Programs, \$169,310 in each fiscal year shall be used to support 78936
the Kent State University Learning and Technology Project. This 78937
project is a kindergarten through university collaboration between 78938
schools surrounding Kent State University's eight campuses in 78939
northeast Ohio and corporate partners who will assist in 78940
development and delivery. 78941

The Kent State University Project shall provide a faculty 78942
member who has a full-time role in the development of 78943
collaborative activities and teacher instructional programming 78944
between Kent State University and the K-12th grade schools that 78945
surround its eight campuses; appropriate student support staff to 78946
facilitate these programs and joint activities; and hardware and 78947
software to schools that will make possible the delivery of 78948
instruction to pre-service and in-service teachers, and their 78949
students, in their own classrooms or school buildings. This shall 78950
involve the delivery of low-bandwidth streaming video and 78951
web-based technologies in a distributed instructional model. 78952

Of the foregoing appropriation item 235-583, Urban University 78953
Programs, \$65,119 in each fiscal year shall be used to support the 78954
Ameritech Classroom/Center for Research at Kent State University. 78955

Of the foregoing appropriation item 235-583, Urban University 78956
Programs, \$651,192 in each fiscal year shall be used to support 78957
the Polymer Distance Learning Project at the University of Akron. 78958

Of the foregoing appropriation item 235-583, Urban University 78959
Programs, \$32,560 in each fiscal year shall be distributed to the 78960
Kent State University/Cleveland Design Center program. 78961

Of the foregoing appropriation item 235-583, Urban University Programs, \$162,797 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$9,766 in each fiscal year shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,433,037 in each fiscal year shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,433,037 in each fiscal year shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$139,777 in each fiscal year shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235-583, Urban University Programs, \$139,777 in each fiscal year shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University.

Of the foregoing appropriation item 235-583, Urban University Programs, \$300,368 in each fiscal year shall be used to support the Medina County University Center.

Section 209.64.60. RURAL UNIVERSITY PROJECTS

Of the foregoing appropriation item 235-587, Rural University

Projects, Bowling Green State University shall receive \$237,405 in 78992
each fiscal year, Miami University shall receive \$220,788 in each 78993
fiscal year, and Ohio University shall receive \$517,513 in each 78994
fiscal year. These funds shall be used to support the Institute 78995
for Local Government Administration and Rural Development at Ohio 78996
University, the Center for Public Management and Regional Affairs 78997
at Miami University, and the Center for Policy Analysis and Public 78998
Service at Bowling Green State University. 78999

A small portion of the funds provided to Ohio University 79000
shall also be used for the Institute for Local Government 79001
Administration and Rural Development State and Rural Policy 79002
Partnership with the Governor's Office of Appalachia and the 79003
Appalachian delegation of the General Assembly. 79004

Of the foregoing appropriation item 235-587, Rural University 79005
Projects, \$14,348 in each fiscal year shall be used to support the 79006
Washington State Community College day care center. 79007

Of the foregoing appropriation item 235-587, Rural University 79008
Projects, \$43,046 in each fiscal year shall be used to support the 79009
COAD/ILGARD/GOA Appalachian Leadership Initiative. 79010

Section 209.64.63. HAZARDOUS MATERIALS PROGRAM 79011

The foregoing appropriation item 235-596, Hazardous Materials 79012
Program, shall be disbursed to Cleveland State University for the 79013
operation of a program to certify firefighters for the handling of 79014
hazardous materials. Training shall be available to all Ohio 79015
firefighters. 79016

Of the foregoing appropriation item 235-596, Hazardous 79017
Materials Program, \$127,337 in each fiscal year shall be used to 79018
support the Center for the Interdisciplinary Study of Education 79019
and Leadership in Public Service at Cleveland State University. 79020
These funds shall be distributed by the Board of Regents and shall 79021

be used by the center targeted toward increasing the role of 79022
special populations in public service and not-for-profit 79023
organizations. The primary purpose of the center is to study 79024
issues in public service and to guide strategies for attracting 79025
new communities into public service occupations by bringing 79026
together a cadre of researchers, scholars, and professionals 79027
representing the public administration, social behavioral, and 79028
education disciplines. 79029

Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM 79030

The Board of Regents shall disburse funds from appropriation 79031
item 235-599, National Guard Scholarship Program, at the direction 79032
of the Adjutant General. The unencumbered balance of appropriation 79033
item 235-599, National Guard Scholarship Program, at the end of 79034
each fiscal year shall be transferred under section 5919.341 of 79035
the Revised Code to the National Guard Scholarship Reserve Fund 79036
(Fund 5BM) for use under appropriation item 235-623, National 79037
Guard Scholarship Reserve Fund. Upon the request of the Adjutant 79038
General, the Board of Regents shall seek Controlling Board 79039
approval to establish appropriations in item 235-623, National 79040
Guard Scholarship Reserve Fund. 79041

Section 209.64.69. * PLEDGE OF FEES 79042

Any new pledge of fees, or new agreement for adjustment of 79043
fees, made in the biennium ending June 30, 2007, to secure bonds 79044
or notes of a state-assisted institution of higher education for a 79045
project for which bonds or notes were not outstanding on the 79046
effective date of this section shall be effective only after 79047
approval by the Board of Regents, unless approved in a previous 79048
biennium. 79049

Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT 79050

SERVICE 79051

The foregoing appropriation item 235-909, Higher Education 79052
General Obligation Debt Service, shall be used to pay all debt 79053
service and related financing costs at the times they are required 79054
to be made under sections 151.01 and 151.04 of the Revised Code 79055
during the period from July 1, 2005, to June 30, 2007. The Office 79056
of the Sinking Fund or the Director of Budget and Management shall 79057
effectuate the required payments by intrastate transfer voucher. 79058

Section 209.64.75. SALES AND SERVICES 79059

The Board of Regents is authorized to charge and accept 79060
payment for the provision of goods and services. Such charges 79061
shall be reasonably related to the cost of producing the goods and 79062
services. No charges may be levied for goods or services that are 79063
produced as part of the routine responsibilities or duties of the 79064
Board. All revenues received by the Board of Regents shall be 79065
deposited into Fund 456, and may be used by the Board of Regents 79066
to pay for the costs of producing the goods and services. 79067

Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY 79068

COMMISSION SUPPORT 79069

The foregoing appropriation item 235-602, Higher Educational 79070
Facility Commission Administration, shall be used by the Board of 79071
Regents for operating expenses related to the Board of Regents' 79072
support of the activities of the Ohio Higher Educational Facility 79073
Commission. Upon the request of the chancellor, the Director of 79074
Budget and Management shall transfer up to \$55,000 cash from Fund 79075
461 to Fund 4E8 in each fiscal year of the biennium. 79076

Section 209.64.78. PHYSICIAN LOAN REPAYMENT 79077

The foregoing appropriation item 235-604, Physician Loan 79078

Repayment, shall be used in accordance with sections 3702.71 to 79079
3702.81 of the Revised Code. 79080

Section 209.64.81. NURSING LOAN PROGRAM 79081

The foregoing appropriation item 235-606, Nursing Loan 79082
Program, shall be used to administer the nurse education 79083
assistance program. Up to \$159,600 in fiscal year 2006 and 79084
\$167,580 in fiscal year 2007 may be used for operating expenses 79085
associated with the program. Any additional funds needed for the 79086
administration of the program are subject to Controlling Board 79087
approval. 79088

Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION 79089

The Board of Regents shall work in close collaboration with 79090
the Department of Development, the Air Quality Development 79091
Authority, and the Third Frontier Commission in relation to 79092
appropriation items and programs referred to as Alignment Programs 79093
in the following paragraph, and other technology-related 79094
appropriations and programs in the Department of Development, Air 79095
Quality Development Authority, and the Board of Regents as these 79096
agencies may designate, to ensure implementation of a coherent 79097
state strategy with respect to science and technology. 79098

"Alignment Programs" means: appropriation items 195-401, 79099
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 79100
Third Frontier Action Fund; 898-604, Coal Research and Development 79101
Fund; 235-433, Economic Growth Challenge; 235-451, Eminent 79102
Scholars; 235-508, Air Force Institute of Technology; 235-510, 79103
Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 79104
235-535, Ohio Agricultural Research and Development Center; 79105
235-553, Dayton Area Graduate Studies Institute; 235-554, 79106
Priorities in Collaborative Graduate Education; 235-556, Ohio 79107
Academic Resources Network; and 195-435, Biomedical Research and 79108

Technology Transfer Trust. 79109

Consistent with the recommendations of the Governor's 79110
Commission on Higher Education and the Economy, Alignment Programs 79111
shall be managed and administered (1) to build on existing 79112
competitive research strengths; (2) to encourage new and emerging 79113
discoveries and commercialization of products and ideas that will 79114
benefit the Ohio economy; and (3) to assure improved collaboration 79115
among Alignment Programs, with programs administered by the Third 79116
Frontier Commission, and with other state programs that are 79117
intended to improve economic growth and job creation. 79118

If requested by the Third Frontier Commission, Alignment 79119
Programs managers shall report to the Commission or the Third 79120
Frontier Advisory Board, as directed by the Commission, on the 79121
contributions of their programs to achieving the objectives stated 79122
in the preceding paragraph of this section. 79123

Each alignment program shall be reviewed annually by the 79124
Third Frontier Commission with respect to its development of 79125
complementary relationships within a combined state science and 79126
technology investment portfolio and its overall contribution to 79127
the state's science and technology strategy, including the 79128
adoption of appropriately consistent criteria for: (1) the 79129
scientific merit of activities supported by the program; (2) the 79130
relevance of the program's activities to commercial opportunities 79131
in the private sector; (3) the private sector's involvement in a 79132
process that continually evaluates commercial opportunities to use 79133
the work supported by the program; and (4) the ability of the 79134
program and recipients of grant funding from the program to engage 79135
in activities that are collaborative, complementary, and efficient 79136
with respect to the expenditure of state funds. All programs 79137
listed above shall provide annual reports to the Third Frontier 79138
Commission discussing existing, planned, or possible 79139
collaborations between programs and recipients of grant funding 79140

related to technology, development, commercialization, and 79141
supporting Ohio's economic development. The annual review by the 79142
Third Frontier Commission shall be a comprehensive review of the 79143
entire state science and technology program portfolio rather than 79144
a review of individual programs. 79145

Applicants for Third Frontier and Alignment Programs funding 79146
shall identify their requirements for high-performance computing 79147
facilities and services, including both hardware and software, in 79148
the proposals. If an applicant's requirements exceed approximately 79149
\$100,000 for a proposal, the Ohio Supercomputer Center shall 79150
convene a panel of experts. The panel shall review the proposal to 79151
determine whether the proposal's requirements can be met through 79152
Ohio Supercomputer Center facilities or through other means and 79153
report such information to the Third Frontier Commission. 79154

To ensure that the state receives the maximum benefit from 79155
its investment in the Third Frontier Project and the Third 79156
Frontier Network, organizations receiving Third Frontier awards 79157
and Alignment Programs awards shall, as appropriate, be expected 79158
to have a connection to the Third Frontier Network that enables 79159
them and their collaborators to achieve award objectives through 79160
the Third Frontier Network. 79161

Section 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT 79162
FUND MONEYS 79163

Notwithstanding any provision of law to the contrary, all 79164
repayments of Research Facility Investment Fund loans shall be 79165
made to the Bond Service Trust Fund. All Research Facility 79166
Investment Fund loan repayments made prior to the effective date 79167
of this section shall be transferred by the Director of Budget and 79168
Management to the Bond Service Trust Fund within sixty days after 79169
the effective date of this section. 79170

Campuses shall make timely repayments of Research Facility 79171
Investment Fund loans, according to the schedule established by 79172
the Board of Regents. In the case of late payments, the Board of 79173
Regents may deduct from an institution's periodic subsidy 79174
distribution an amount equal to the amount of the overdue payment 79175
for that institution, transfer such amount to the Bond Service 79176
Trust Fund, and credit the appropriate institution for the 79177
repayment. 79178

Section 209.64.90. VETERANS' PREFERENCES 79179

The Board of Regents shall work with the Governor's Office of 79180
Veterans' Affairs to develop specific veterans' preference 79181
guidelines for higher education institutions. These guidelines 79182
shall ensure that the institutions' hiring practices are in 79183
accordance with the intent of Ohio's veterans' preference laws. 79184

Section 209.64.93. STATE NEED-BASED FINANCIAL AID 79185
RECONCILIATION 79186

By the first day of August in each fiscal year, or as soon 79187
thereafter as possible, the Ohio Board of Regents shall certify to 79188
the Director of Budget and Management the amount necessary to pay 79189
any outstanding prior year obligations to higher education 79190
institutions for the state's need-based financial aid programs. 79191
The amounts certified are hereby appropriated to appropriation 79192
item 235-618, State Need-based Financial Aid Reconciliation, from 79193
revenues received in the State Need-based Financial Aid 79194
Reconciliation Fund (Fund 5Y5). 79195

Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 79196
CORRECTION 79197
General Revenue Fund 79198
GRF 501-321 Institutional \$ 857,371,490 \$ 873,888,880 79199

		Operations				
GRF	501-403	Prisoner Compensation	\$	8,599,255	\$	8,599,255 79200
GRF	501-405	Halfway House	\$	38,104,924	\$	38,105,128 79201
GRF	501-406	Lease Rental Payments	\$	132,370,500	\$	120,600,600 79202
GRF	501-407	Community	\$	15,383,471	\$	15,404,522 79203
		Nonresidential				
		Programs				
GRF	501-408	Community Misdemeanor	\$	8,041,489	\$	8,041,489 79204
		Programs				
GRF	501-501	Community Residential	\$	55,054,445	\$	55,054,445 79205
		Programs - CBCF				
GRF	502-321	Mental Health Services	\$	64,897,564	\$	66,055,754 79206
GRF	503-321	Parole and Community	\$	78,887,219	\$	80,708,911 79207
		Operations				
GRF	504-321	Administrative	\$	27,559,389	\$	28,147,730 79208
		Operations				
GRF	505-321	Institution Medical	\$	159,926,575	\$	176,500,628 79209
		Services				
GRF	506-321	Institution Education	\$	22,727,366	\$	23,114,615 79210
		Services				
GRF	507-321	Institution Recovery	\$	6,946,286	\$	7,090,212 79211
		Services				
TOTAL GRF		General Revenue Fund	\$	1,475,869,973	\$	1,501,312,169 79212
		General Services Fund Group				79213
148	501-602	Services and	\$	95,207,653	\$	95,207,653 79214
		Agricultural				
200	501-607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000 79215
4B0	501-601	Penitentiary Sewer	\$	1,758,177	\$	1,758,177 79216
		Treatment Facility				
		Services				
4D4	501-603	Prisoner Programs	\$	20,967,703	\$	20,967,703 79217
4L4	501-604	Transitional Control	\$	1,593,794	\$	1,593,794 79218
4S5	501-608	Education Services	\$	4,564,072	\$	4,564,072 79219

483	501-605	Property Receipts	\$	393,491	\$	393,491	79220
5AF	501-609	State and Non-Federal Awards	\$	262,718	\$	262,718	79221
5H8	501-617	Offender Financial Responsibility	\$	2,000,000	\$	2,000,000	79222
5L6	501-611	Information Technology Services	\$	3,741,980	\$	3,741,980	79223
571	501-606	Training Academy Receipts	\$	75,190	\$	75,190	79224
593	501-618	Laboratory Services	\$	5,799,999	\$	5,799,999	79225
TOTAL GSF		General Services Fund Group	\$	174,364,777	\$	174,364,777	79226
							79227
Federal Special Revenue Fund Group							
3S1	501-615	Truth-In-Sentencing Grants	\$	26,127,427	\$	26,127,427	79228
323	501-619	Federal Grants	\$	12,198,353	\$	12,198,353	79229
TOTAL FED		Federal Special Revenue Fund Group	\$	38,325,780	\$	38,325,780	79231
TOTAL ALL BUDGET FUND GROUPS			\$	1,688,560,530	\$	1,714,002,726	79232
OHIO BUILDING AUTHORITY LEASE PAYMENTS							79233
The foregoing appropriation item 501-406, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2005, to June 30, 2007, under the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code but limited to the aggregate amount of \$252,971,100. This appropriation amount is the source of funds pledged for bond service charges on related obligations issued under Chapter 152. of the Revised Code.							79234 79235 79236 79237 79238 79239 79240 79241
PRISONER COMPENSATION							79242
Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by							79243 79244

intrastate transfer voucher to the Services and Agricultural Fund				79245
(Fund 148) for the purposes of paying prisoner compensation.				79246
Section 209.72. RSC REHABILITATION SERVICES COMMISSION				79247
General Revenue Fund				79248
GRF 415-100 Personal Services	\$	8,851,468	\$ 8,851,468	79249
GRF 415-402 Independent Living	\$	12,280	\$ 12,280	79250
Council				
GRF 415-403 Mental Health Services	\$	717,221	\$ 717,221	79251
GRF 415-404 MR/DD Services	\$	1,260,816	\$ 1,260,816	79252
GRF 415-405 Vocational	\$	536,912	\$ 536,912	79253
Rehabilitation/Job and Family Services				
GRF 415-406 Assistive Technology	\$	47,531	\$ 47,531	79254
GRF 415-431 Office for People with	\$	226,012	\$ 226,012	79255
Brain Injury				
GRF 415-506 Services for People	\$	12,185,215	\$ 12,185,215	79256
with Disabilities				
GRF 415-508 Services for the Deaf	\$	50,000	\$ 50,000	79257
GRF 415-509 Services for the	\$	359,377	\$ 359,377	79258
Elderly				
GRF 415-520 Independent Living	\$	50,000	\$ 50,000	79259
Services				
TOTAL GRF General Revenue Fund	\$	24,296,832	\$ 24,296,832	79260
General Services Fund Group				79261
4W5 415-606 Program Management	\$	18,557,040	\$ 18,557,040	79262
Expenses				
467 415-609 Business Enterprise	\$	1,632,082	\$ 1,632,082	79263
Operating Expenses				
TOTAL GSF General Services				79264
Fund Group	\$	20,189,122	\$ 20,189,122	79265
Federal Special Revenue Fund Group				79266

3L1	415-601	Social Security Personal Care Assistance	\$	3,743,740	\$	3,743,740	79267
3L1	415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	79268
3L1	415-607	Social Security Administration Cost	\$	175,860	\$	175,860	79269
3L1	415-608	Social Security Special Programs/Assistance	\$	2,246,991	\$	131,716	79270
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,336,324	\$	1,338,324	79271
3L1	415-614	Social Security Independent Living	\$	154,942	\$	0	79272
3L4	415-612	Federal Independent Living Centers or Services	\$	894,662	\$	686,520	79273
3L4	415-615	Federal - Supported Employment	\$	1,338,191	\$	1,338,191	79274
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,508,885	\$	1,608,885	79275
317	415-620	Disability Determination	\$	82,870,347	\$	87,999,369	79276
379	415-616	Federal - Vocational Rehabilitation	\$	123,565,158	\$	119,998,470	79277
TOTAL FED		Federal Special					79278
Revenue Fund Group			\$	218,935,588	\$	218,121,563	79279
State Special Revenue Fund Group							79280
4L1	415-619	Services for	\$	4,500,000	\$	4,500,000	79281

Rehabilitation

468 415-618 Third Party Funding	\$	1,055,407	\$	1,105,407	79282
TOTAL SSR State Special					79283
Revenue Fund Group	\$	5,555,407	\$	5,605,407	79284
TOTAL ALL BUDGET FUND GROUPS	\$	268,976,949	\$	268,212,924	79285

INDEPENDENT LIVING COUNCIL 79286

The foregoing appropriation item 415-402, Independent Living 79287
 Council, shall be used to fund the operations of the State 79288
 Independent Living Council. 79289

MENTAL HEALTH SERVICES 79290

The foregoing appropriation item 415-403, Mental Health 79291
 Services, shall be used for the provision of vocational 79292
 rehabilitation services to mutually eligible consumers of the 79293
 Rehabilitation Services Commission and the Department of Mental 79294
 Health. 79295

The Rehabilitation Services Commission shall provide the 79296
 Department of Mental Health a quarterly report stating the numbers 79297
 served, numbers placed in employment, average hourly wage, and 79298
 average hours worked. 79299

MR/DD SERVICES 79300

The foregoing appropriation item 415-404, MR/DD Services, 79301
 shall be used as state matching funds to provide vocational 79302
 rehabilitation services to mutually eligible clients between the 79303
 Rehabilitation Services Commission and the Department of Mental 79304
 Retardation and Developmental Disabilities. The Rehabilitation 79305
 Services Commission shall report to the Department of Mental 79306
 Retardation and Developmental Disabilities, as outlined in an 79307
 interagency agreement, on the number and status of mutually 79308
 eligible clients and the status of the funds and expenditures for 79309
 these clients. 79310

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 79311

The foregoing appropriation item 415-405, Vocational 79312
Rehabilitation/Job and Family Services, shall be used as state 79313
matching funds to provide vocational rehabilitation services to 79314
mutually eligible clients between the Rehabilitation Services 79315
Commission and the Department of Job and Family Services. The 79316
Rehabilitation Services Commission shall report to the Department 79317
of Job and Family Services, as outlined in an interagency 79318
agreement, on the number and status of mutually eligible clients 79319
and the status of the funds and expenditures for these clients. 79320

ASSISTIVE TECHNOLOGY 79321

The foregoing appropriation item 415-406, Assistive 79322
Technology, shall be provided to Assistive Technology of Ohio and 79323
shall be used only to provide grants under that program. No amount 79324
of the appropriation may be used for administrative costs. 79325

OFFICE FOR PEOPLE WITH BRAIN INJURY 79326

Of the foregoing appropriation item 415-431, Office for 79327
People with Brain Injury, \$50,000 in each fiscal year shall be 79328
used for the state match for a federal grant awarded through the 79329
Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 79330
in fiscal year 2006 and up to \$50,000 in fiscal year 2007 shall be 79331
provided to the Brain Injury Trust Fund. The remaining 79332
appropriation shall be used to plan and coordinate 79333
head-injury-related services provided by state agencies and other 79334
government or private entities, to assess the needs for such 79335
services, and to set priorities in this area. 79336

SERVICES FOR THE DEAF 79337

The foregoing appropriation item 415-508, Services for the 79338
Deaf, shall be used to supplement Social Security reimbursement 79339
funds used to provide grants to community centers for the deaf. 79340

These funds shall not be used in lieu of Social Security	79341
reimbursement funds.	79342
SERVICES FOR THE ELDERLY	79343
The foregoing appropriation item 415-509, Services for the	79344
Elderly, shall be used as matching funds for vocational	79345
rehabilitation services for eligible elderly citizens with a	79346
disability.	79347
INDEPENDENT LIVING SERVICES	79348
The foregoing appropriation items 415-520, Independent Living	79349
Services, and 415-612, Federal - Independent Living Centers or	79350
Services, shall be used to support state independent living	79351
centers or independent living services under Title VII of the	79352
Independent Living Services and Centers for Independent Living of	79353
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29	79354
U.S.C. 796d.	79355
PROGRAM MANAGEMENT EXPENSES	79356
The foregoing appropriation item 415-606, Program Management	79357
Expenses, shall be used to support the administrative functions of	79358
the commission related to the provision of vocational	79359
rehabilitation, disability determination services, and ancillary	79360
programs.	79361
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	79362
The foregoing appropriation item 415-617, Independent	79363
Living/Vocational Rehabilitation Programs, shall be used to	79364
support vocational rehabilitation programs, including, but not	79365
limited to, high tech high schools, training, and brain injury	79366
grants.	79367
SOCIAL SECURITY REIMBURSEMENT FUNDS	79368
Reimbursement funds received from the Social Security	79369
Administration, United States Department of Health and Human	79370

Services, for the costs of providing services and training to 79371
return disability recipients to gainful employment shall be used 79372
in the Social Security Reimbursement Fund (Fund 3L1), as follows: 79373

(A) Appropriation item 415-601, Social Security Personal Care 79374
Assistance, to provide personal care services in accordance with 79375
section 3304.41 of the Revised Code; 79376

(B) Appropriation item 415-605, Social Security Community 79377
Centers for the Deaf, to provide grants to community centers for 79378
the deaf in Ohio for services to individuals with hearing 79379
impairments; 79380

(C) Appropriation item 415-607, Social Security 79381
Administration Cost, to provide administrative services needed to 79382
administer the Social Security reimbursement program; 79383

(D) Appropriation item 415-608, Social Security Special 79384
Programs/Assistance, to provide vocational rehabilitation services 79385
to individuals with severe disabilities who are Social Security 79386
beneficiaries, to enable them to achieve competitive employment. 79387
This appropriation item also includes funds to assist the Personal 79388
Care Assistance, Community Centers for the Deaf, and Independent 79389
Living Programs to pay their share of indirect costs as mandated 79390
by federal OMB Circular A-87. 79391

(E) Appropriation item 415-610, Social Security Vocational 79392
Rehabilitation, to provide vocational rehabilitation services to 79393
older blind individuals with severe disabilities to enable them to 79394
achieve a noncompetitive employment goal. 79395

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 79396

During fiscal years 2006 and 2007, the Rehabilitation 79397
Services Commission may conduct a pilot program to provide 79398
vocational rehabilitation and related services to entities, 79399
employers, or individuals that are not eligible for state- or 79400

federally-supported services through the commission. The 79401
 commission shall propose fees to be collected from the entities, 79402
 employers, or individuals served by the pilot program to support 79403
 the costs for vocational rehabilitation and related services 79404
 provided under the pilot program. Fee revenues collected under the 79405
 program shall be credited to Fund 468 (Third Party Funding). 79406
 During implementation of the pilot program, the Rehabilitation 79407
 Services Commission shall investigate and determine the 79408
 possibility of utilizing this source of revenue to match federal 79409
 funds. The Rehabilitation Services Commission shall evaluate the 79410
 progress of the pilot program and issue a report of its findings 79411
 to the Governor not later than December 15, 2007. The report shall 79412
 include a recommendation to either continue or discontinue the 79413
 pilot program in the next biennium. 79414

Section 209.75. RCB RESPIRATORY CARE BOARD 79415

General Services Fund Group 79416
 4K9 872-609 Operating Expenses \$ 441,987 \$ 0 79417
 TOTAL GSF General Services 79418
 Fund Group \$ 441,987 \$ 0 79419
 TOTAL ALL BUDGET FUND GROUPS \$ 441,987 \$ 0 79420

Section 209.78. REVENUE DISTRIBUTION FUNDS 79422

Volunteer Firefighters' Dependents Fund 79423
 085 800-900 Volunteer \$ 280,000 \$ 280,000 79424
 Firefighters'
 Dependents Fund
 TOTAL 085 Volunteer Firefighters' 79425
 Dependents Fund \$ 280,000 \$ 280,000 79426
 Agency Fund Group 79427
 062 110-900 Resort Area Excise Tax \$ 1,000,000 \$ 1,075,000 79428
 063 110-900 Permissive Tax \$ 1,627,628,631 \$ 1,706,969,960 79429

		Distribution				
067	110-900	School District Income	\$	185,000,000	\$	195,000,000 79430
		Tax				
4P8	001-698	Cash Management	\$	2,500,000	\$	3,000,000 79431
		Improvement Fund				
608	001-699	Investment Earnings	\$	85,000,000	\$	85,000,000 79432
		TOTAL AGY Agency Fund Group	\$	1,901,128,631	\$	1,991,044,960 79433
		Holding Account Redistribution				79434
R45	110-617	International Fuel Tax	\$	6,292,029	\$	0 79435
		Distribution				
		TOTAL 090 Holding Account	\$	6,292,029	\$	0 79436
		Redistribution Fund				
		Revenue Distribution Fund Group				79437
049	038-900	Indigent Drivers	\$	1,865,000	\$	1,865,000 79438
		Alcohol Treatment				
050	762-900	International	\$	55,000,000	\$	55,000,000 79439
		Registration Plan				
		Distribution				
051	762-901	Auto Registration	\$	475,000,000	\$	475,000,000 79440
		Distribution				
054	110-900	Local Government	\$	90,000,000	\$	90,000,000 79441
		Property Tax				
		Replacement - Utility				
060	110-900	Gasoline Excise Tax	\$	325,000,000	\$	349,000,000 79442
		Fund				
064	110-900	Local Government	\$	83,754,100	\$	77,384,100 79443
		Revenue Assistance				
065	110-900	Library/Local	\$	439,372,980	\$	430,584,650 79444
		Government Support				
		Fund				
066	800-900	Undivided Liquor	\$	13,500,000	\$	13,500,000 79445
		Permits				
068	110-900	State and Local	\$	231,076,000	\$	235,542,000 79446

	Government Highway				
	Distribution				
069	110-900	Local Government Fund	\$ 598,454,000	\$ 560,455,299	79447
081	110-900	Local Government	\$ 20,490,000	\$ 154,290,000	79448
	Property Tax				
	Replacement-Business				
082	110-900	Horse Racing Tax	\$ 130,000	\$ 130,000	79449
083	700-900	Ohio Fairs Fund	\$ 2,450,000	\$ 2,450,000	79450
088	110-900	Local Government	\$ 5,000,000	\$ 0	79451
	Services Collaboration				
089	100-900	Small Township and	\$ 3,500,000	\$ 6,500,000	79452
	Village Relief				
TOTAL RDF Revenue Distribution					79453
Fund Group			\$ 2,344,592,080	\$ 2,451,701,049	79454
TOTAL ALL BUDGET FUND GROUPS			\$ 4,252,292,740	\$ 4,443,027,009	79455
ADDITIONAL APPROPRIATIONS					79456
Appropriation items in this section shall be used for the					79457
purpose of administering and distributing the designated revenue					79458
distribution funds according to the Revised Code. If it is					79459
determined that additional appropriations are necessary for this					79460
purpose, such amounts are appropriated.					79461
Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL					79462
GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081)					79463
Notwithstanding any provision of law to the contrary, the Director					79464
of Budget and Management shall transfer \$4,290,000 in fiscal year					79465
2006 and \$30,090,000 in fiscal year 2007 from the General Revenue					79466
Fund to appropriation item 110-900, Local Government Property Tax					79467
Replacement - Business (Fund 081) in the Revenue Distribution					79468
Fund. The funds shall be used to reimburse local taxing units					79469
under section 5751.22 of the Revised Code.					79470

Section 209.78.06. LOCAL GOVERNMENT SERVICES COLLABORATION	79471
GRANT PROGRAM	79472
(A) The Director of Development shall administer a Local	79473
Government Services Collaboration Grant Program. The Director may	79474
adopt rules under section 111.15 of the Revised Code and do all	79475
things necessary for that purpose.	79476
(B) There is hereby created in the State Treasury the Local	79477
Government Services Collaboration Grant Fund (Fund 088). The fund	79478
shall consist of all cash deposited to it pursuant to Section	79479
557.12 of this act. The fund shall be used by the Director of	79480
Development in administering the Local Government Services	79481
Collaboration Grant Program.	79482
(C) The foregoing appropriation item 110-900, Local	79483
Government Services Collaboration, shall be used by the Director	79484
of Development to administer the Local Government Services	79485
Collaboration Grant Program. Moneys shall be used to provide	79486
grants to counties, municipal corporations, townships, and	79487
fire/ambulance districts that are interested in combining the	79488
provision of local government services with those of other	79489
counties, municipal corporations, townships, or fire/ambulance	79490
districts. Individual grant awards shall be used solely for the	79491
cost of conducting a feasibility study that addresses whether, and	79492
in what manner, counties, municipal corporations, townships, and	79493
fire/ambulance districts may combine their respective provisions	79494
of local government services.	79495
Individual grants shall be available on a competitive basis	79496
to a county, municipal corporation, township, or fire/ambulance	79497
district that proposes to combine its provision of local	79498
government services with those of at least two other counties,	79499
municipal corporations, townships, or fire/ambulance districts, or	79500
with any combination of at least two other counties, municipal	79501

corporations, townships, or fire/ambulance districts. Grants shall 79502
be awarded according to the following formula: 79503

(1) For a total of, or for any combination of, three 79504
counties, municipal corporations, townships, or fire/ambulance 79505
districts, the grant shall be equal to fifty per cent of the total 79506
cost of the feasibility study; 79507

(2) For a total of, or for any combination of, four counties, 79508
municipal corporations, townships, or fire/ambulance districts, 79509
the grant shall be equal to sixty per cent of the total cost of 79510
the feasibility study; 79511

(3) For a total of, or for any combination of, five counties, 79512
municipal corporations, townships, or fire/ambulance districts, 79513
the grant shall be equal to seventy per cent of the total cost of 79514
the feasibility study; 79515

(4) For a total of, or for any combination of six counties, 79516
municipal corporations, townships, or fire/ambulance districts, 79517
the grant shall be equal to eighty per cent of the total cost of 79518
the feasibility study; 79519

(5) For a total of, or for any combination of, seven 79520
counties, municipal corporations, townships, or fire/ambulance 79521
districts, the grant shall be equal to ninety per cent of the 79522
total cost of the feasibility study; 79523

(6) For a total of, or for any combination of, eight or more 79524
counties, municipal corporations, townships, or fire/ambulance 79525
districts, the grant shall be equal to the total cost of the 79526
feasibility study. 79527

(D) Of the foregoing appropriation 110-900, Local Government 79528
Services Collaboration, not more than \$100,000 over the biennium 79529
may be used by the Department of Development for operating 79530
expenditures in administering the Local Government Services 79531

Collaboration Grant Program. 79532

(E) Applicants for funding under the Local Government 79533
Services Collaboration Grant Program are encouraged to utilize the 79534
services of state-funded colleges and universities to conduct the 79535
feasibility studies referenced under this section. 79536

(F) As used in this section, "local government services" 79537
means services typically provided by a county, municipal 79538
corporation, township, or fire/ambulance district for the health, 79539
safety, and well-being of community residents and includes, but is 79540
not limited to, police and fire protection, 9-1-1 emergency 79541
service, trash collection, snow removal, road repair, and the 79542
provision of public utilities such as water and sewer services. 79543

(G) On or before June 30, 2006, the unencumbered balance of 79544
the foregoing appropriation item 110-900, Local Government 79545
Services Collaboration, for fiscal year 2006 is hereby 79546
appropriated for the same purpose for fiscal year 2007. 79547

Section 209.78.09. SMALL TOWNSHIP AND VILLAGE RELIEF FUND 79548

(A) The Small Township and Village Relief Fund (Fund 089) is 79549
hereby created in the state treasury. 79550

(B)(1) Notwithstanding any other provision of law to the 79551
contrary, on July 1, 2005, or as soon as possible thereafter, the 79552
Director of Budget and Management shall transfer up to \$3,500,000 79553
from the General Revenue Fund to the Small Township and Village 79554
Relief Fund. 79555

(2) Notwithstanding any other provision of law to the 79556
contrary, on July 1, 2006, or as soon as possible thereafter, the 79557
Director of Budget and Management shall transfer up to \$6,500,000 79558
from the General Revenue Fund to the Small Township and Village 79559
Relief Fund. 79560

(C) The Small Township and Village Relief Fund shall be used 79561

to aid eligible small townships and villages in providing 79562
essential services to residents. The Tax Commissioner shall adopt 79563
rules and determine the distribution method of the Small Township 79564
And Village Relief Fund (Fund 089). The tax commissioner shall 79565
take into account when determining the method of distributing 79566
funds to eligible townships and villages the following factors: 79567

(1) Townships with a population under 20,000 individuals 79568
under the most recent estimated federal census figures. 79569

(2) Townships with average or median property values must be 79570
less than the state average or median property tax values. 79571

(3) Villages with a population under 5,000 individuals under 79572
the most recent estimated federal census figures. 79573

Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION 79574

General Services Fund Group				79575
4K9 893-609 Operating Expenses	\$	134,279	\$ 0	79576
TOTAL GSF General Services				79577
Fund Group	\$	134,279	\$ 0	79578
TOTAL ALL BUDGET FUND GROUPS	\$	134,279	\$ 0	79579

Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND 79581

General Revenue Fund				79582
GRF 226-100 Personal Services	\$	6,469,841	\$ 6,594,261	79583
GRF 226-200 Maintenance	\$	704,162	\$ 704,162	79584
GRF 226-300 Equipment	\$	113,289	\$ 113,289	79585
TOTAL GRF General Revenue Fund	\$	7,287,292	\$ 7,411,712	79586
General Services Fund Group				79587
4H8 226-602 Education Reform	\$	21,620	\$ 21,620	79588
Grants				
TOTAL GSF General Services				79589
Fund Group	\$	21,620	\$ 21,620	79590

Federal Special Revenue Fund Group				79591
3P5 226-643 Medicaid Professional	\$	180,000	\$ 210,000	79592
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,639,000	\$ 1,639,000	79593
TOTAL FED Federal Special				79594
Revenue Fund Group	\$	1,819,000	\$ 1,849,000	79595
State Special Revenue Fund Group				79596
4M5 226-601 Student Activity and	\$	217,397	\$ 217,397	79597
Work Study				
TOTAL SSR State Special Revenue				79598
Fund Group	\$	217,397	\$ 217,397	79599
TOTAL ALL BUDGET FUND GROUPS	\$	9,345,309	\$ 9,499,729	79600
Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF				79602
General Revenue Fund				79603
GRF 221-100 Personal Services	\$	8,401,704	\$ 8,401,704	79604
GRF 221-200 Maintenance	\$	1,032,751	\$ 1,032,751	79605
GRF 221-300 Equipment	\$	222,500	\$ 222,500	79606
TOTAL GRF General Revenue Fund	\$	9,656,955	\$ 9,656,955	79607
General Services Fund Group				79608
4M1 221-602 Education Reform	\$	27,575	\$ 27,575	79609
Grants				
TOTAL GSF General Services				79610
Fund Group	\$	27,575	\$ 27,575	79611
Federal Special Revenue Fund Group				79612
3AD 221-604 VREAL Ohio	\$	1,000,000	\$ 1,000,000	79613
3R0 221-684 Medicaid Professional	\$	35,000	\$ 35,000	79614
Services Reimbursement				79615
3Y1 221-686 Early Childhood Grant	\$	250,000	\$ 250,000	79616
311 221-625 Coordinating Unit	\$	1,062,426	\$ 1,062,426	79617
TOTAL FED Federal Special				79618

Revenue Fund Group	\$	2,347,426	\$	2,347,426	79619
State Special Revenue Fund Group					79620
4M0 221-601 Educational Program	\$	32,688	\$	32,688	79621
Expenses					79622
5H6 221-609 Even Start Fees &	\$	59,800	\$	59,800	79623
Gifts					
TOTAL SSR State Special Revenue					79624
Fund Group	\$	92,488	\$	92,488	79625
TOTAL ALL BUDGET FUND GROUPS	\$	12,124,444	\$	12,124,444	79626
EQUIPMENT					79627
Of the foregoing appropriation item 221-300, Equipment, up to					79628
\$15,000 in fiscal year 2006 may be used by the Ohio School for the					79629
Deaf to purchase software for the documentation and tracking of					79630
students for increased accountability and data analysis for					79631
quality instruction.					79632
Section 209.90. SFC SCHOOL FACILITIES COMMISSION					79633
General Revenue Fund					79634
GRF 230-428 Lease Rental Payments	\$	31,691,700	\$	31,603,200	79635
GRF 230-908 Common Schools General	\$	188,724,700	\$	224,911,500	79636
Obligation Debt					
Service					
TOTAL GRF General Revenue Fund	\$	220,416,400	\$	256,514,700	79637
State Special Revenue Fund Group					79638
5E3 230-644 Operating Expenses	\$	7,319,617	\$	7,691,485	79639
TOTAL SSR State Special Revenue					79640
Fund Group	\$	7,319,617	\$	7,691,485	79641
Lottery Profits Education Fund Group					79642
020 230-620 Career-Tech School	\$	2,000,000	\$	2,000,000	79643
Building Assistance					
TOTAL LPE Lottery Profits					79644

Education Fund Group	\$	2,000,000	\$	2,000,000	79645
TOTAL ALL BUDGET FUND GROUPS	\$	229,736,017	\$	266,206,185	79646

Section 209.90.03. LEASE RENTAL PAYMENTS 79648

The foregoing appropriation item 230-428, Lease Rental 79649
Payments, shall be used to meet all payments at the times they are 79650
required to be made during the period from July 1, 2005, to June 79651
30, 2007, by the School Facilities Commission under leases and 79652
agreements made under section 3318.26 of the Revised Code, but 79653
limited to the aggregate amount of \$63,294,900. Nothing in this 79654
act shall be deemed to contravene the obligation of the state to 79655
pay, without necessity for further appropriation, from the sources 79656
pledged thereto, the bond service charges on obligations issued 79657
under Chapter 3318. of the Revised Code. 79658

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 79659

The foregoing appropriation item 230-908, Common Schools 79660
General Obligation Debt Service, shall be used to pay all debt 79661
service and related financing costs at the times they are required 79662
to be made under sections 151.01 and 151.03 of the Revised Code 79663
during the period from July 1, 2005, to June 30, 2007. The Office 79664
of the Sinking Fund or the Director of Budget and Management shall 79665
effectuate the required payments by an intrastate transfer 79666
voucher. 79667

OPERATING EXPENSES 79668

The foregoing appropriation item 230-644, Operating Expenses, 79669
shall be used by the Ohio School Facilities Commission to carry 79670
out its responsibilities under this section and Chapter 3318. of 79671
the Revised Code. 79672

In both fiscal years 2006 and 2007, the Executive Director of 79673
the Ohio School Facilities Commission shall certify on a quarterly 79674
basis to the Director of Budget and Management the amount of cash 79675

from interest earnings to be transferred from the School Building Assistance Fund (Fund 032), the Public School Building Fund (Fund 021), and the Educational Facilities Trust Fund (Fund N87) 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 79683

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 under section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of the canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are hereby appropriated.

Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF SCHOOL FACILITIES 79694
79695

Notwithstanding any other provision of law to the contrary, the School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not exclusively to a school district in the lowest fifty per cent of adjusted valuation per pupil on the current ranking of school districts established under section 3317.02 of the Revised Code, for the purpose of the relocation or replacement of school facilities required as a result of extreme environmental contamination.

The School Facilities Commission shall contract with an independent environmental consultant to conduct a study and to report to the commission as to the seriousness of the environmental contamination, whether the contamination violates applicable state and federal standards, and whether the facilities are no longer suitable for use as school facilities. The commission then shall make a determination regarding funding for the relocation or replacement of the school facilities. If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the school facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

Section 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT

(A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would otherwise be authorized under Chapter 3318. of the Revised Code. The Commission shall not commit funds under this section unless all of the following conditions are met:

(1) The District has entered into a cooperative agreement with a state-assisted technical college.

(2) The District has received an irrevocable commitment of additional funding from nonpublic sources.

(3) The facility is intended to serve both secondary and postsecondary instructional purposes. 79737
79738

(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: 79739
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(1) The Commission shall not have any oversight responsibilities over the construction of the facility. 79747
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(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission. 79749
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(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. 79751
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(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. 79754
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All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. 79757
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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. 79760
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Section 209.93. SOS SECRETARY OF STATE 79766

General Revenue Fund				79767
GRF 050-321 Operating Expenses	\$	2,585,000	\$ 2,585,000	79768
GRF 050-403 Election Statistics	\$	103,936	\$ 103,936	79769
GRF 050-407 Pollworkers Training	\$	277,977	\$ 277,977	79770
GRF 050-409 Litigation	\$	4,652	\$ 4,652	79771
Expenditures				
TOTAL GRF General Revenue Fund	\$	2,971,585	\$ 2,971,585	79772
General Services Fund Group				79773
4S8 050-610 Board of Voting	\$	7,200	\$ 7,200	79774
Machine Examiners				
412 050-609 Notary Commission	\$	685,250	\$ 685,249	79775
413 050-601 Information Systems	\$	169,955	\$ 169,955	79776
414 050-602 Citizen Education Fund	\$	75,700	\$ 55,712	79777
TOTAL General Services Fund Group	\$	938,105	\$ 918,116	79778
Federal Special Revenue Fund Group				79779
3AS 050-616 2005 HAVA Voting	\$	37,436,203	\$ 0	79780
Machines				
3X4 050-612 Ohio Center/Law	\$	41,000	\$ 41,000	79781
Related Educational				
Grant				
TOTAL FED Federal Special Revenue				79782
Fund Group	\$	37,477,203	\$ 41,000	79783
State Special Revenue Fund Group				79784
5N9 050-607 Technology	\$	129,565	\$ 129,565	79785
Improvements				
599 050-603 Business Services	\$	13,741,745	\$ 13,761,734	79786
Operating Expenses				
TOTAL SSR State Special Revenue				79787
Fund Group	\$	13,871,310	\$ 13,891,299	79788
Holding Account Redistribution Fund Group				79789
R01 050-605 Uniform Commercial	\$	65,000	\$ 65,000	79790

Code Refunds				
R02 050-606	Corporate/Business	\$ 100,000	\$ 100,000	79791
Filing Refunds				
TOTAL 090	Holding Account			79792
Redistribution Fund Group		\$ 165,000	\$ 165,000	79793
TOTAL ALL BUDGET FUND GROUPS		\$ 55,423,203	\$ 17,987,000	79794
BOARD OF VOTING MACHINE EXAMINERS				79795
The foregoing appropriation item 050-610, Board of Voting				79796
Machine Examiners, shall be used to pay for the services and				79797
expenses of the members of the Board of Voting Machine Examiners,				79798
and for other expenses that are authorized to be paid from the				79799
Board of Voting Machine Examiners Fund, which is created in				79800
section 3506.05 of the Revised Code. Moneys not used shall be				79801
returned to the person or entity submitting the equipment for				79802
examination. If it is determined that additional appropriations				79803
are necessary, such amounts are appropriated.				79804
HOLDING ACCOUNT REDISTRIBUTION GROUP				79805
The foregoing appropriation items 050-605 and 050-606,				79806
Holding Account Redistribution Fund Group, shall be used to hold				79807
revenues until they are directed to the appropriate accounts or				79808
until they are refunded. If it is determined that additional				79809
appropriations are necessary, such amounts are appropriated.				79810
Section 209.96. SEN THE OHIO SENATE				79811
General Revenue Fund				79812
GRF 020-321	Operating Expenses	\$ 11,546,357	\$ 11,661,821	79813
TOTAL GRF	General Revenue Fund	\$ 11,546,357	\$ 11,661,821	79814
General Services Fund Group				79815
102 020-602	Senate Reimbursement	\$ 444,025	\$ 444,025	79816
409 020-601	Miscellaneous Sales	\$ 34,155	\$ 34,155	79817
TOTAL GSF	General Services			79818

Fund Group	\$	478,180	\$	478,180	79819
TOTAL ALL BUDGET FUND GROUPS	\$	12,024,537	\$	12,140,001	79820

OPERATING EXPENSES 79821

On July 1, 2005, or as soon as possible thereafter, the Clerk 79822
of the Senate shall certify to the Director of Budget and 79823
Management the total fiscal year 2005 unencumbered appropriations 79824
in appropriation item 020-321, Operating Expenses. The Clerk may 79825
direct the Director of Budget and Management to transfer an amount 79826
not to exceed the total fiscal year 2005 unencumbered 79827
appropriations to fiscal year 2006 for use within appropriation 79828
item 020-321, Operating Expenses. Additional appropriation 79829
authority equal to the amount certified by the Clerk is hereby 79830
appropriated to appropriation item 020-321, Operating Expenses, in 79831
fiscal year 2006. 79832

On July 1, 2006, or as soon as possible thereafter, the Clerk 79833
of the Senate shall certify to the Director of Budget and 79834
Management the total fiscal year 2006 unencumbered appropriations 79835
in appropriation item 020-321, Operating Expenses. The Clerk may 79836
direct the Director of Budget and Management to transfer an amount 79837
not to exceed the total fiscal year 2006 unencumbered 79838
appropriations to fiscal year 2007 for use within appropriation 79839
item 020-321, Operating Expenses. Additional appropriation 79840
authority equal to the amount certified by the Clerk is hereby 79841
appropriated to appropriation item 020-321, Operating Expenses, in 79842
fiscal year 2007. 79843

Section 209.99. CSF COMMISSIONERS OF THE SINKING FUND 79844

Debt Service Fund Group					79845
072 155-902 Highway Capital	\$	180,620,600	\$	196,464,900	79846
Improvements Bond					
Retirement Fund					
073 155-903 Natural Resources Bond	\$	26,166,000	\$	24,659,100	79847

		Retirement Fund				
074	155-904	Conservation Projects	\$	14,687,300	\$	17,668,800 79848
		Bond Service Fund				
076	155-906	Coal Research and	\$	7,071,100	\$	8,980,800 79849
		Development Bond				
		Retirement Fund				
077	155-907	State Capital	\$	163,131,400	\$	174,545,100 79850
		Improvements Bond				
		Retirement Fund				
078	155-908	Common Schools Bond	\$	200,724,700	\$	236,911,500 79851
		Retirement Fund				
079	155-909	Higher Education Bond	\$	140,600,300	\$	158,114,100 79852
		Retirement Fund				
TOTAL	DSF	Debt Service Fund Group	\$	733,001,400	\$	817,344,300 79853
TOTAL	ALL BUDGET	FUND GROUPS	\$	733,001,400	\$	817,344,300 79854

ADDITIONAL APPROPRIATIONS 79855

Appropriation items in this section are for the purpose of 79856
 paying debt service and financing costs on bonds or notes of the 79857
 state issued under the Ohio Constitution and acts of the General 79858
 Assembly. If it is determined that additional appropriations are 79859
 necessary for this purpose, such amounts are appropriated. 79860

COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER 79861
 AUTHORIZATION 79862

Notwithstanding any other provision of law to the contrary, 79863
 the Commissioners of the Sinking Fund shall certify to the 79864
 Director of Budget and Management, and the director shall then 79865
 transfer, the cash balance remaining after provision for the 79866
 payment of all outstanding bonds, notes, coupons, and charges from 79867
 the Highway Obligation Bond Retirement Fund (Fund 071) to the 79868
 Highway Capital Improvements Bond Service Fund (Fund 072), created 79869
 by section 151.06 of the Revised Code, as expeditiously as 79870
 possible after the effective date of this section. 79871

Section 212.03. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY &				79872
AUDIOLOGY				79873
General Services Fund Group				79874
4K9 886-609 Operating Expenses	\$	408,864	\$ 0	79875
TOTAL GSF General Services				79876
Fund Group	\$	408,864	\$ 0	79877
TOTAL ALL BUDGET FUND GROUPS				79878
 Section 212.06. BTA BOARD OF TAX APPEALS				79880
General Revenue Fund				79881
GRF 116-321 Operating Expenses	\$	2,155,055	\$ 2,211,035	79882
TOTAL GRF General Revenue Fund				79883
TOTAL ALL BUDGET FUND GROUPS				79884
 Section 212.09. TAX DEPARTMENT OF TAXATION				79886
General Revenue Fund				79887
GRF 110-321 Operating Expenses	\$	91,439,754	\$ 91,439,754	79888
GRF 110-412 Child Support	\$	71,988	\$ 71,988	79889
Administration				
GRF 110-901 Property Tax	\$	430,102,680	\$ 409,946,241	79890
Allocation - Taxation				
GRF 110-906 Tangible Tax Exemption	\$	18,355,923	\$ 13,766,942	79891
- Taxation				
TOTAL GRF General Revenue Fund				79892
Agency Fund Group				79893
095 110-901 Municipal Income Tax	\$	21,000,000	\$ 21,000,000	79894
425 110-635 Tax Refunds	\$	1,483,900,000	\$ 1,582,700,000	79895
TOTAL AGY Agency Fund Group				79896
General Services Fund Group				79897
228 110-628 Tax Reform System	\$	7,000,000	\$ 7,000,000	79898
Implementation				

433	110-602	Tape File Account	\$	96,165	\$	96,165	79899
5BW	110-630	Tax Amnesty Promotion and Administration	\$	2,000,000	\$	0	79900
5W4	110-625	Centralized Tax Filing and Payment	\$	2,500,000	\$	2,000,000	79901
5W7	110-627	Exempt Facility Administration	\$	36,000	\$	36,000	79902
TOTAL GSF General Services							79903
Fund Group			\$	11,632,165	\$	9,132,165	79904
Federal Special Revenue Fund Group							79905
3J6	110-601	Motor Fuel Compliance	\$	25,000	\$	25,000	79906
TOTAL FED Federal Special Revenue							79907
Fund Group			\$	25,000	\$	25,000	79908
State Special Revenue Fund Group							79909
4C6	110-616	International Registration Plan	\$	706,855	\$	706,855	79910
4R6	110-610	Tire Tax Administration	\$	65,000	\$	65,000	79911
435	110-607	Local Tax Administration	\$	15,880,987	\$	16,394,879	79912
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000	79913
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232	79914
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999	79915
5BQ	110-629	Commercial Activity Tax Administration	\$	6,000,000	\$	500,000	79916
5N5	110-605	Municipal Income Tax Administration	\$	265,000	\$	265,000	79917
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000	79918

5V7	110-622	Motor Fuel Tax	\$	4,268,345	\$	4,397,263	79919
		Administration					
5V8	110-623	Property Tax	\$	12,758,643	\$	12,967,102	79920
		Administration					
639	110-614	Cigarette Tax	\$	168,925	\$	168,925	79921
		Enforcement					
642	110-613	Ohio Political Party	\$	600,000	\$	600,000	79922
		Distributions					
688	110-615	Local Excise Tax	\$	300,000	\$	300,000	79923
		Administration					
TOTAL SSR State Special Revenue							79924
Fund Group			\$	45,673,986	\$	41,025,255	79925
Holding Account Redistribution Fund Group							79926
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	79927
R11	110-612	Miscellaneous Income	\$	50,000	\$	50,000	79928
		Tax Receipts					
TOTAL 090 Holding Account							79929
Redistribution Fund Group			\$	100,000	\$	100,000	79930
TOTAL ALL BUDGET FUND GROUPS							79931
HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX							79932
EXEMPTION							79933
The foregoing appropriation item 110-901, Property Tax							79934
Allocation - Taxation, is hereby appropriated to pay for the							79935
state's costs incurred because of the Homestead Exemption, the							79936
Manufactured Home Property Tax Rollback, and the Property Tax							79937
Rollback. The Tax Commissioner shall distribute these funds							79938
directly to the appropriate local taxing districts, except for							79939
school districts, notwithstanding the provisions in sections							79940
321.24 and 323.156 of the Revised Code, which provide for payment							79941
of the Homestead Exemption, the Manufactured Home Property Tax							79942
Rollback, and Property Tax Rollback by the Tax Commissioner to the							79943
appropriate county treasurer and the subsequent redistribution of							79944

these funds to the appropriate local taxing districts by the 79945
county auditor. 79946

The foregoing appropriation item 110-906, Tangible Tax 79947
Exemption - Taxation, is hereby appropriated to pay for the 79948
state's costs incurred because of the tangible personal property 79949
tax exemption required by division (C)(3) of section 5709.01 of 79950
the Revised Code. The Tax Commissioner shall distribute to each 79951
county treasurer the total amount appearing in the notification 79952
from the county treasurer under division (G) of section 321.24 of 79953
the Revised Code for all local taxing districts located in the 79954
county except for school districts, notwithstanding the provision 79955
in section 321.24 of the Revised Code which provides for payment 79956
of the \$10,000 tangible personal property tax exemption by the Tax 79957
Commissioner to the appropriate county treasurer for all local 79958
taxing districts located in the county including school districts. 79959
The county auditor shall distribute the amount paid by the Tax 79960
Commissioner among the appropriate local taxing districts except 79961
for school districts under division (G) of section 321.24 of the 79962
Revised Code. 79963

Upon receipt of these amounts, each local taxing district 79964
shall distribute the amount among the proper funds as if it had 79965
been paid as real or tangible personal property taxes. Payments 79966
for the costs of administration shall continue to be paid to the 79967
county treasurer and county auditor as provided for in sections 79968
319.54, 321.26, and 323.156 of the Revised Code. 79969

Any sums, in addition to the amounts specifically 79970
appropriated in appropriation items 110-901, Property Tax 79971
Allocation - Taxation, for the Homestead Exemption, the 79972
Manufactured Home Property Tax Rollback, and the Property Tax 79973
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 79974
for the \$10,000 tangible personal property tax exemption payments, 79975
which are determined to be necessary for these purposes, are 79976

hereby appropriated.	79977
MUNICIPAL INCOME TAX	79978
The foregoing appropriation item 110-901, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make these payments, such amounts are hereby appropriated.	79979 79980 79981 79982 79983
TAX REFUNDS	79984
The foregoing appropriation item 110-635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.	79985 79986 79987 79988
TAX REFORM SYSTEM IMPLEMENTATION FUND	79989
Notwithstanding section 3734.9010, division (B)(2)(c) of section 4505.09, division (B) of section 5703.12, section 5703.80, division (C)(6) of section 5727.81, sections 5733.122 and 5735.053, division (C) of section 5739.21, section 5745.03, division (C) of section 5747.03, and section 5747.113 of the Revised Code and any other statutory provision to the contrary, any residual cash balances determined and certified by the Tax Commissioner to the Director of Budget and Management shall be transferred on July 1, 2005, or as soon as possible thereafter, to the Tax Reform System Implementation Fund (Fund 228), which is hereby created in the State Treasury. The fund shall be used to pay expenses incurred by the Department of Taxation in providing an integrated tax system that will accommodate the needs of tax reform and allow for improved customer service, processing efficiency, compliance enforcement, and reporting.	79990 79991 79992 79993 79994 79995 79996 79997 79998 79999 80000 80001 80002 80003 80004
INTERNATIONAL REGISTRATION PLAN AUDIT	80005
The foregoing appropriation item 110-616, International	80006

Registration Plan, shall be used under section 5703.12 of the 80007
Revised Code for audits of persons with vehicles registered under 80008
the International Registration Plan. 80009

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 80010

Of the foregoing appropriation item 110-607, Local Tax 80011
Administration, the Tax Commissioner may disburse funds, if 80012
available, for the purposes of paying travel expenses incurred by 80013
members of Ohio's delegation to the Streamlined Sales Tax Project, 80014
as appointed under section 5740.02 of the Revised Code. Any travel 80015
expense reimbursement paid for by the Department of Taxation shall 80016
be done in accordance with applicable state laws and guidelines. 80017

LITTER CONTROL TAX ADMINISTRATION FUND 80018

Notwithstanding section 5733.12 of the Revised Code, during 80019
the period from July 1, 2005, to June 30, 2006, the amount of 80020
\$625,232, and during the period from July 1, 2006, to June 30, 80021
2007, the amount of \$625,232, received by the Tax Commissioner 80022
under Chapter 5733. of the Revised Code, shall be credited to the 80023
Litter Control Tax Administration Fund (Fund 437). 80024

TAX AMNESTY PROMOTION AND ADMINISTRATION 80025

The foregoing appropriation item 110-630, Tax Amnesty 80026
Promotion and Administration, shall be used to pay expenses 80027
incurred to promote and administer the tax amnesty program run 80028
from November 1, 2005, through December 15, 2005, by the 80029
Department of Taxation. The Department of Taxation and Attorney 80030
General's Office shall work in close collaboration on promotion 80031
activities in relation to the Tax Amnesty Promotion and 80032
Administration program. 80033

CENTRALIZED TAX FILING AND PAYMENT FUND 80034

The Director of Budget and Management, under a plan submitted 80035
by the Tax Commissioner, or as otherwise determined by the 80036

Director of Budget and Management, shall set a schedule to 80037
transfer cash from the General Revenue Fund to the credit of the 80038
Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers 80039
of cash shall not exceed \$4,500,000 in the biennium. 80040

COMMERCIAL ACTIVITY TAX ADMINISTRATION 80041

The foregoing appropriation item 110-629, Commercial Activity 80042
Tax Administration, shall be used to pay expenses incurred by the 80043
Department of Taxation to implement and administer the Commercial 80044
Activity Tax under Chapter 5751. of the Revised Code. 80045

Section 212.12. DOT DEPARTMENT OF TRANSPORTATION 80046

Transportation Modes 80047

General Revenue Fund 80048

GRF 775-451 Public Transportation \$ 16,300,000 \$ 16,300,000 80049
- State

GRF 776-465 Ohio Rail Development \$ 2,700,000 \$ 2,700,000 80050
Commission

GRF 776-466 Railroad \$ 789,600 \$ 789,600 80051
Crossing/Grade
Separation

GRF 777-471 Airport Improvements - \$ 1,793,985 \$ 1,793,985 80052
State

GRF 777-473 Rickenbacker Lease \$ 594,500 \$ 320,300 80053
Payments - State

TOTAL GRF General Revenue Fund \$ 22,178,085 \$ 21,903,885 80054

Federal Special Revenue Fund Group 80055

3B9 776-662 Rail Transportation - \$ 10,000 \$ 10,000 80056
Federal

TOTAL FSR Federal Special Revenue 80057

Fund Group \$ 10,000 \$ 10,000 80058

State Special Revenue Fund Group 80059

4N4 776-663	Panhandle Lease	\$	764,400	\$	764,400	80060
	Reserve Payments					
4N4 776-664	Rail Transportation -	\$	2,111,500	\$	2,111,500	80061
	Other					
5W9 777-615	County Airport	\$	570,000	\$	570,000	80062
	Maintenance Assistance					
TOTAL SSR	State Special Revenue					80063
Fund Group		\$	3,445,900	\$	3,445,900	80064
TOTAL ALL BUDGET FUND GROUPS		\$	25,633,985	\$	25,359,785	80065
	ELDERLY AND DISABLED FARE ASSISTANCE					80066
	Of the foregoing appropriation item 775-451, Public					80067
	Transportation - State, up to \$6,000,000 in fiscal year 2006 and					80068
	\$7,000,000 in fiscal year 2007 may be used to make grants to					80069
	county transit boards, regional transit authorities, regional					80070
	transit commissions, counties, municipal corporations, and private					80071
	nonprofit organizations that operate or will operate public					80072
	transportation systems, for the purpose of reducing the transit					80073
	fares of elderly or disabled persons. The Director of					80074
	Transportation shall establish criteria for the distribution of					80075
	these grants under division (B) of section 5501.07 of the Revised					80076
	Code.					80077
	AVIATION LEASE PAYMENTS					80078
	The foregoing appropriation item 777-473, Rickenbacker Lease					80079
	Payments - State, shall be used to meet scheduled payments for the					80080
	Rickenbacker Port Authority. The Director of Transportation shall					80081
	certify to the Director of Budget and Management any					80082
	appropriations in appropriation item 777-473, Rickenbacker Lease					80083
	Payments - State, that are not needed to make lease payments for					80084
	the Rickenbacker Port Authority. Notwithstanding section 127.14 of					80085
	the Revised Code, the amount certified may be transferred by the					80086
	Director of Budget and Management to appropriation item 777-471,					80087
	Airport Improvements - State.					80088

Section 212.15. TOS TREASURER OF STATE				80089
General Revenue Fund				80090
GRF 090-321	Operating Expenses	\$ 9,041,937	\$ 9,041,937	80091
GRF 090-401	Office of the Sinking	\$ 521,576	\$ 521,576	80092
	Fund			80093
GRF 090-402	Continuing Education	\$ 435,770	\$ 435,770	80094
GRF 090-524	Police and Fire	\$ 25,000	\$ 20,000	80095
	Disability Pension			80096
	Fund			
GRF 090-534	Police & Fire Ad Hoc	\$ 180,000	\$ 150,000	80097
	Cost			
	of Living			80098
GRF 090-554	Police and Fire	\$ 1,100,000	\$ 1,000,000	80099
	Survivor			
	Benefits			80100
GRF 090-575	Police and Fire Death	\$ 20,000,000	\$ 20,000,000	80101
	Benefits			80102
TOTAL GRF	General Revenue Fund	\$ 31,304,283	\$ 31,169,283	80103
Agency Fund Group				80104
425 090-635	Tax Refunds	\$ 31,000,000	\$ 31,000,000	80105
TOTAL Agency	Fund Group	\$ 31,000,000	\$ 31,000,000	80106
General Services Fund Group				80107
4E9 090-603	Securities Lending	\$ 2,721,800	\$ 2,814,000	80108
	Income			
577 090-605	Investment Pool	\$ 550,000	\$ 550,000	80109
	Reimbursement			80110
605 090-609	Treasurer of State	\$ 700,000	\$ 700,000	80111
	Administrative Fund			80112
TOTAL GSF	General Services			80113
Fund Group		\$ 3,971,800	\$ 4,064,000	80114
State Special Revenue Fund Group				80115

5C5 090-602 County Treasurer	\$	135,000	\$	135,000	80116
Education					
TOTAL SSR State Special Revenue					80117
Fund Group	\$	135,000	\$	135,000	80118
TOTAL ALL BUDGET FUND GROUPS	\$	66,411,083	\$	66,368,283	80119

Section 212.15.03. OFFICE OF THE SINKING FUND 80121

The foregoing appropriation item 090-401, Office of the 80122
Sinking Fund, shall be used for financing and other costs incurred 80123
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 80124
Public Facilities Commission or its secretary, or the Treasurer of 80125
State, with respect to State of Ohio general obligation bonds or 80126
notes, including, but not limited to, printing, advertising, 80127
delivery, rating fees and the procurement of ratings, professional 80128
publications, membership in professional organizations, and 80129
services referred to in division (D) of section 151.01 of the 80130
Revised Code. The General Revenue Fund shall be reimbursed for 80131
such costs by intrastate transfer voucher pursuant to a 80132
certification by the Office of the Sinking Fund of the actual 80133
amounts used. The amounts necessary to make such reimbursements 80134
are appropriated from the general obligation bond retirement funds 80135
created by the Constitution and laws to the extent such costs are 80136
incurred. 80137

POLICE AND FIRE DEATH BENEFIT FUND 80138

The foregoing appropriation item 090-575, Police and Fire 80139
Death Benefits, shall be disbursed annually by the Treasurer of 80140
State at the beginning of each fiscal year to the Board of 80141
Trustees of the Ohio Police and Fire Pension Fund. By the 80142
twentieth day of June of each fiscal year, the Board of Trustees 80143
of the Ohio Police and Fire Pension Fund shall certify to the 80144
Treasurer of State the amount disbursed in the current fiscal year 80145
to make the payments required by section 742.63 of the Revised 80146

Code and shall return to the Treasurer of State moneys received				80147
from this appropriation item but not disbursed.				80148
TAX REFUNDS				80149
The foregoing appropriation item 090-635, Tax Refunds, shall				80150
be used to pay refunds under section 5703.052 of the Revised Code.				80151
If the Director of Budget and Management determines that				80152
additional amounts are necessary for this purpose, such amounts				80153
are hereby appropriated.				80154
Section 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK				80155
Agency Fund Group				80156
691 810-632 PUSTRCB Staff	\$	1,075,158	\$ 1,116,658	80157
TOTAL AGY Agency Fund Group	\$	1,075,158	\$ 1,116,658	80158
TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$ 1,116,658	80159
Section 212.21. TTA OHIO TUITION TRUST AUTHORITY				80161
State Special Revenue Fund Group				80162
5AM 095-603 Index Savings Plan	\$	2,866,240	\$ 3,104,865	80163
5P3 095-602 Variable College	\$	2,042,486	\$ 2,118,568	80164
Savings Fund				
645 095-601 Operating Expenses	\$	807,260	\$ 891,173	80165
TOTAL SSR State Special Revenue				80166
Fund Group	\$	5,715,986	\$ 6,114,606	80167
TOTAL ALL BUDGET FUND GROUPS	\$	5,715,986	\$ 6,114,606	80168
Section 212.24. OVH OHIO VETERANS' HOME				80170
General Revenue Fund				80171
GRF 430-100 Personal Services	\$	19,685,007	\$ 19,989,167	80172
GRF 430-200 Maintenance	\$	6,396,200	\$ 6,396,200	80173
TOTAL GRF General Revenue Fund	\$	26,081,207	\$ 26,385,367	80174
General Services Fund Group				80175

484	430-603	Rental and Service	\$	882,737	\$	882,737	80176
		Revenue					
TOTAL	GSF	General Services Fund	\$	882,737	\$	882,737	80177
		Group					
		Federal Special Revenue Fund Group					80178
3L2	430-601	Federal VA Per Diem	\$	14,990,510	\$	15,290,320	80179
		Grant					
TOTAL	FED	Federal Special Revenue					80180
		Fund Group	\$	14,990,510	\$	15,290,320	80181
		State Special Revenue Fund Group					80182
4E2	430-602	Veterans Home	\$	8,322,731	\$	8,530,800	80183
		Operating					
604	430-604	Veterans Home	\$	770,096	\$	770,096	80184
		Improvement					
TOTAL	SSR	State Special Revenue					80185
		Fund Group	\$	9,092,827	\$	9,300,896	80186
TOTAL	ALL	BUDGET FUND GROUPS	\$	51,047,281	\$	51,859,320	80187
		Section 212.27. VET VETERANS' ORGANIZATIONS					80189
		General Revenue Fund					80190
		VAP AMERICAN EX-PRISONERS OF WAR					80191
GRF	743-501	State Support	\$	25,030	\$	25,030	80192
		VAN ARMY AND NAVY UNION, USA, INC.					80193
GRF	746-501	State Support	\$	55,012	\$	55,012	80194
		VKW KOREAN WAR VETERANS					80195
GRF	747-501	State Support	\$	49,453	\$	49,453	80196
		VJW JEWISH WAR VETERANS					80197
GRF	748-501	State Support	\$	29,715	\$	29,715	80198
		VCW CATHOLIC WAR VETERANS					80199
GRF	749-501	State Support	\$	57,990	\$	57,990	80200
		VPH MILITARY ORDER OF THE PURPLE HEART					80201
GRF	750-501	State Support	\$	56,377	\$	56,377	80202

	VVV VIETNAM VETERANS OF AMERICA				80203	
GRF 751-501	State Support	\$	185,954	\$	185,954	80204
	VAL AMERICAN LEGION OF OHIO				80205	
GRF 752-501	State Support	\$	252,328	\$	252,328	80206
	VII AMVETS				80207	
GRF 753-501	State Support	\$	237,919	\$	237,919	80208
	VAV DISABLED AMERICAN VETERANS				80209	
GRF 754-501	State Support	\$	166,308	\$	166,308	80210
	VMC MARINE CORPS LEAGUE				80211	
GRF 756-501	State Support	\$	85,972	\$	85,972	80212
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION				80213	
GRF 757-501	State Support	\$	5,946	\$	5,946	80214
	VFW VETERANS OF FOREIGN WARS				80215	
GRF 758-501	State Support	\$	196,615	\$	196,615	80216
TOTAL GRF General Revenue Fund		\$	1,404,619	\$	1,404,619	80217
TOTAL ALL BUDGET FUND GROUPS		\$	1,404,619	\$	1,404,619	80218
	RELEASE OF FUNDS				80219	
	The foregoing appropriation items 743-501, 746-501, 747-501,				80220	
	748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501,				80221	
	756-501, 757-501, and 758-501, State Support, shall be released				80222	
	upon approval by the Director of Budget and Management.				80223	
	CENTRAL OHIO UNITED SERVICES ORGANIZATION				80224	
	Of the foregoing appropriation item 751-501, State Support,				80225	
	Vietnam Veterans of America, \$50,000 in each fiscal year shall be				80226	
	used to support the activities of the Central Ohio USO.				80227	
	VETERANS SERVICE COMMISSION EDUCATION				80228	
	Of the foregoing appropriation item 753-501, State Support,				80229	
	AMVETS, up to \$20,000 in each fiscal year may be used to provide				80230	
	moneys to the Association of County Veterans Service Commissioners				80231	
	to reimburse its member county veterans service commissions for				80232	
	costs incurred in carrying out educational and outreach duties				80233	

required under divisions (E) and (F) of section 5901.03 of the Revised Code. The Director of Budget and Management shall release these funds upon the presentation of an itemized receipt, approved by the Governor's Office of Veterans Affairs, from the association for reasonable and appropriate expenses incurred while performing these duties. The association shall establish uniform procedures for reimbursing member commissions.

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Section 212.30. DVM STATE VETERINARY MEDICAL BOARD

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General Services Fund Group

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4K9 888-609 Operating Expenses	\$	293,691	\$	0	80243
5BU 888-602 Veterinary Student	\$	60,000	\$	0	80244

Loan Program

TOTAL GSF General Services

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Fund Group	\$	353,691	\$	0	80246
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TOTAL ALL BUDGET FUND GROUPS	\$	353,691	\$	0	80247
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CASH TRANSFER TO VETERINARY STUDENT LOAN PROGRAM FUND (FUND 5BU)

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On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$60,000 in cash from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Veterinary Student Loan Program Fund (Fund 5BU), which is hereby created. The amount of the transfer is hereby appropriated.

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VETERINARY STUDENT LOAN PROGRAM

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The foregoing appropriation item 888-602, Veterinary Student Loan Program, shall be used by the Veterinary Medical Licensing Board to implement a student loan repayment program for veterinary students focusing on large animal populations, public health, or regulatory veterinary medicine.

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Section 212.33. DYS DEPARTMENT OF YOUTH SERVICES

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General Revenue Fund				80262	
GRF 470-401 RECLAIM Ohio	\$	177,016,683	\$	182,084,588	80263
GRF 470-412 Lease Rental Payments	\$	20,267,500	\$	21,882,700	80264
GRF 470-510 Youth Services	\$	18,608,587	\$	18,608,587	80265
GRF 472-321 Parole Operations	\$	14,358,995	\$	14,962,871	80266
GRF 477-321 Administrative Operations	\$	14,239,494	\$	14,754,420	80267
TOTAL GRF General Revenue Fund	\$	244,491,259	\$	252,293,166	80268
General Services Fund Group				80269	
175 470-613 Education Reimbursement	\$	10,112,529	\$	9,450,598	80270
4A2 470-602 Child Support	\$	320,641	\$	328,657	80271
4G6 470-605 General Operational Funds	\$	10,000	\$	10,000	80272
479 470-609 Employee Food Service	\$	141,466	\$	137,666	80273
523 470-621 Wellness Program	\$	46,937	\$	0	80274
6A5 470-616 Building Demolition	\$	31,100	\$	0	80275
TOTAL GSF General Services Fund Group	\$	10,662,673	\$	9,926,921	80277
Federal Special Revenue Fund Group				80278	
3V5 470-604 Juvenile Justice/Delinquency Prevention	\$	4,254,745	\$	4,254,746	80279
3W0 470-611 Federal Juvenile Programs FFY 02	\$	222,507	\$	0	80280
3Z8 470-625 Federal Juvenile Programs FFY 04	\$	1,500,001	\$	773,812	80281
3Z9 470-626 Federal Juvenile Programs FFY 05	\$	465,000	\$	0	80282
321 470-601 Education	\$	1,422,580	\$	1,465,399	80283
321 470-603 Juvenile Justice Prevention	\$	1,981,169	\$	2,006,505	80284

321 470-606 Nutrition	\$	2,471,550	\$	2,470,655	80285
321 470-614 Title IV-E	\$	4,960,589	\$	6,012,361	80286
Reimbursements					
321 470-617 Americorps Programs	\$	456,000	\$	463,700	80287
TOTAL FED Federal Special Revenue					80288
Fund Group	\$	17,734,141	\$	17,447,178	80289
State Special Revenue Fund Group					
147 470-612 Vocational Education	\$	1,937,784	\$	2,009,866	80291
4W3 470-618 Help Me Grow	\$	11,000	\$	11,000	80292
5BH 470-628 Partnerships for	\$	1,500,000	\$	1,500,000	80293
Success					
TOTAL SSR State Special Revenue					80294
Fund Group	\$	3,448,784	\$	3,520,866	80295
TOTAL ALL BUDGET FUND GROUPS	\$	276,336,857	\$	283,188,131	80296
RECLAIM OHIO					
					80297
Of the foregoing appropriation item 470-401, RECLAIM Ohio,					80298
\$25,000 in each fiscal year shall be distributed directly to the					80299
Lighthouse Youth Services Wrap-Around Program.					80300
OHIO BUILDING AUTHORITY LEASE PAYMENTS					
					80301
The foregoing appropriation item 470-412, Lease Rental					80302
Payments, in the Department of Youth Services, shall be used for					80303
payments to the Ohio Building Authority for the period from July					80304
1, 2005, to June 30, 2007, under the primary leases and agreements					80305
for facilities made under Chapter 152. of the Revised Code, but					80306
limited to the aggregate amount of \$42,150,200. This appropriation					80307
is the source of funds pledged for bond service charges on related					80308
obligations issued pursuant to Chapter 152. of the Revised Code.					80309
EDUCATION REIMBURSEMENT					
					80310
The foregoing appropriation item 470-613, Education					80311
Reimbursement, shall be used to fund the operating expenses of					80312
providing educational services to youth supervised by the					80313

Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursement for state surplus property.

PARTNERSHIPS FOR SUCCESS

In fiscal year 2006, the foregoing appropriation item 470-628, Partnerships for Success, shall be used to support the Partnerships for Success Project. On or before January 1, 2007, the Director of Budget and Management shall transfer any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH) to the Children's Trust Fund (Fund 198).

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES

Any business relating to the funds associated with the Office of Criminal Justice Services' appropriation item 196-602, Criminal Justice Federal Programs, commenced but not completed by the Office of Criminal Justice Services or its director shall be completed by the Department of Youth Services or its director in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services or its director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered by the Department of Youth Services.

Any action or proceeding against the Office of Criminal Justice Services pending on the effective date of this section

shall not be affected by the transfer of responsibility to the Department of Youth Services, and shall be prosecuted or defended in the name of the Department of Youth Services or its director. In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party.

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Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES
APPROVED BY THE CONTROLLING BOARD

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Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2007.

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Section 303.06. PERSONAL SERVICE EXPENSES

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Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item

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070-601, Public Audit Expense - Local Government, in Fund 422 may 80374
be exempted from the requirements of this section. 80375

Section 303.09. RE-ISSUANCE OF VOIDED WARRANTS 80376

In order to provide funds for the reissuance of voided 80377
warrants under section 117.47 of the Revised Code, there is hereby 80378
appropriated, out of moneys in the state treasury from the fund 80379
credited as provided in section 117.47 of the Revised Code, that 80380
amount sufficient to pay such warrants when approved by the Office 80381
of Budget and Management. 80382

Section 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 80383
AGAINST THE STATE 80384

Except as otherwise provided in this section, an 80385
appropriation in this act or any other act may be used for the 80386
purpose of satisfying judgments, settlements, or administrative 80387
awards ordered or approved by the Court of Claims or by any other 80388
court of competent jurisdiction in connection with civil actions 80389
against the state. This authorization does not apply to 80390
appropriations to be applied to or used for payment of guarantees 80391
by or on behalf of the state, or for payments under lease 80392
agreements relating to, or debt service on, bonds, notes, or other 80393
obligations of the state. Notwithstanding any other statute to the 80394
contrary, this authorization includes appropriations from funds 80395
into which proceeds of direct obligations of the state are 80396
deposited only to the extent that the judgment, settlement, or 80397
administrative award is for, or represents, capital costs for 80398
which the appropriation may otherwise be used and is consistent 80399
with the purpose for which any related obligations were issued or 80400
entered into. Nothing contained in this section is intended to 80401
subject the state to suit in any forum in which it is not 80402
otherwise subject to suit, and is not intended to waive or 80403

compromise any defense or right available to the state in any suit 80404
against it. 80405

Section 303.13. CAPITAL PROJECT SETTLEMENTS 80406

This section specifies an additional and supplemental 80407
procedure to provide for payments of judgments and settlements if 80408
the Director of Budget and Management determines, pursuant to 80409
division (C)(4) of section 2743.19 of the Revised Code, that 80410
sufficient unencumbered moneys do not exist in the particular 80411
appropriation to pay the amount of a final judgment rendered 80412
against the state or a state agency, including the settlement of a 80413
claim approved by a court, in an action upon and arising out of a 80414
contractual obligation for the construction or improvement of a 80415
capital facility if the costs under the contract were payable in 80416
whole or in part from a state capital projects appropriation. In 80417
such a case, the director may either proceed pursuant to division 80418
(C)(4) of section 2743.19 of the Revised Code or apply to the 80419
Controlling Board to increase an appropriation or create an 80420
appropriation out of any unencumbered moneys in the state treasury 80421
to the credit of the capital projects fund from which the initial 80422
state appropriation was made. The Controlling Board may approve or 80423
disapprove the application as submitted or modified. The amount of 80424
an increase in appropriation or new appropriation specified in an 80425
application approved by the Controlling Board is hereby 80426
appropriated from the applicable capital projects fund and made 80427
available for the payment of the judgment or settlement. 80428

If the director does not make the application authorized by 80429
this section or the Controlling Board disapproves the application, 80430
and the director does not make application under division (C)(4) 80431
of section 2743.19 of the Revised Code, the director shall for the 80432
purpose of making that payment make a request to the General 80433
Assembly as provided for in division (C)(5) of that section. 80434

Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES 80435

There are hereby appropriated out of any moneys in the state 80436
treasury to the credit of the General Revenue Fund, which are not 80437
otherwise appropriated, funds sufficient to make any payment 80438
required by division (B)(2) of section 5747.03 of the Revised 80439
Code. 80440

Section 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 80441
BALANCES OF OPERATING APPROPRIATIONS 80442

An unexpended balance of an operating appropriation or 80443
reappropriation that a state agency lawfully encumbered prior to 80444
the close of a fiscal year is reappropriated on the first day of 80445
July of the following fiscal year from the fund from which it was 80446
originally appropriated or reappropriated for the following period 80447
and shall remain available only for the purpose of discharging the 80448
encumbrance: 80449

(A) For an encumbrance for personal services, maintenance, 80450
equipment, or items for resale, other than an encumbrance for an 80451
item of special order manufacture not available on term contract 80452
or in the open market or for reclamation of land or oil and gas 80453
wells for a period of not more than five months from the end of 80454
the fiscal year; 80455

(B) For an encumbrance for an item of special order 80456
manufacture not available on term contract or in the open market, 80457
for a period of not more than five months from the end of the 80458
fiscal year or, with the written approval of the Director of 80459
Budget and Management, for a period of not more than twelve months 80460
from the end of the fiscal year; 80461

(C) For an encumbrance for reclamation of land or oil and gas 80462
wells, for a period ending when the encumbered appropriation is 80463
expended or for a period of two years, whichever is less; 80464

(D) For an encumbrance for any other expense, for such period 80465
as the director approves, provided such period does not exceed two 80466
years. 80467

Any operating appropriations for which unexpended balances 80468
are reappropriated beyond a five-month period from the end of the 80469
fiscal year by division (B) of this section shall be reported to 80470
the Controlling Board by the Director of Budget and Management by 80471
the thirty-first day of December of each year. The report on each 80472
such item shall include the item, the cost of the item, and the 80473
name of the vendor. The report shall be updated on a quarterly 80474
basis for encumbrances remaining open. 80475

Upon the expiration of the reappropriation period set out in 80476
divisions (A), (B), (C), or (D) of this section, a reappropriation 80477
made by this section lapses, and the Director of Budget and 80478
Management shall cancel the encumbrance of the unexpended 80479
reappropriation not later than the end of the weekend following 80480
the expiration of the reappropriation period. 80481

Notwithstanding the preceding paragraph, with the approval of 80482
the Director of Budget and Management, an unexpended balance of an 80483
encumbrance that was reappropriated on the first day of July by 80484
this section for a period specified in division (C) or (D) of this 80485
section and that remains encumbered at the close of the fiscal 80486
biennium is hereby reappropriated on the first day of July of the 80487
following fiscal biennium from the fund from which it was 80488
originally appropriated or reappropriated for the applicable 80489
period specified in division (C) or (D) of this section and shall 80490
remain available only for the purpose of discharging the 80491
encumbrance. 80492

The Director of Budget and Management may correct accounting 80493
errors committed by the staff of the Office of Budget and 80494
Management, such as re-establishing encumbrances or appropriations 80495

cancelled in error, during the cancellation of operating 80496
encumbrances in November and of non-operating encumbrances in 80497
December. 80498

If the Controlling Board approved a purchase, that approval 80499
remains in effect so long as the appropriation used to make that 80500
purchase remains encumbered. 80501

Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 80502

The maximum amounts that may be assessed against nuclear 80503
electric utilities under division (B)(2) of section 4937.05 of the 80504
Revised Code are as follows: 80505

	FY 2006	FY 2007	
Department of Agriculture			80506
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	80507
Department of Health			80508
Fund 610 Radiation Emergency Response	\$850,000	850,000	80509
Environmental Protection Agency			80510
Fund 644 ER Radiological Safety	\$286,114	\$286,114	80511
Emergency Management Agency			80512
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000	80513

Section 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM 80515
NON-FEDERAL NON-GRF FUNDS 80516

Notwithstanding any other provision of law to the contrary, 80517
during fiscal years 2006 and 2007, the Director of Budget and 80518
Management is hereby authorized to transfer cash from non-federal, 80519
non-General Revenue Fund funds that are not constitutionally 80520
restricted to the General Revenue Fund. The total amount of cash 80521
transfers made pursuant to this section to the General Revenue 80522
Fund during fiscal years 2006 and 2007 shall not exceed 80523
\$60,000,000. 80524

Section 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF 80525
INTEREST EARNED 80526

Notwithstanding any provision of Ohio law to the contrary, 80527
the Director of Budget and Management, through June 30, 2007, may 80528
transfer interest earned by any fund in the Central Accounting 80529
System to the General Revenue Fund. This section does not apply to 80530
funds whose source of revenue is restricted or protected by the 80531
Constitution of this state, federal tax law, or the "Cash 80532
Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 80533
U.S.C. 6501, et. seq., as amended. 80534

Section 312.09. BUDGET STABILIZATION FUND TRANSFERS 80535

(A) Notwithstanding any provision of law to the contrary, 80536
through June 30, 2007, if the Director of Budget and Management 80537
determines that the estimated ending fund balance of the General 80538
Revenue Fund will be greater than the amounts assumed in this act 80539
for either fiscal year 2006 or 2007, the Director may transfer up 80540
to the excess balance to the Budget Stabilization Fund. This 80541
division does not apply to division (A) of Section 206.66.21, TANF 80542
TRANSFERS, of this act. 80543

(B) Notwithstanding any provision of law to the contrary, 80544
through June 30, 2007, if the Director of Budget and Management 80545
determines that state revenue receipts and available fund balances 80546
in any fund other than the General Revenue Fund exceed estimated 80547
state expenditures, the Director may transfer up to the excess 80548
revenue to the Budget Stabilization Fund. This division does not 80549
apply to revenue restricted or protected by the Ohio Constitution, 80550
federal tax law or grant requirements, or the "Cash Management 80551
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, 80552
et seq., as amended. 80553

(C) In executing division (A) of this section and division 80554

(A) of Section 206.66.21, TANF TRANSFERS, it is intended that these divisions be applied and construed so that both of the transfers authorized under these divisions may be made through June 30, 2007. 80555
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(D) After making the transfers described in divisions (A) and (B) of this section, the Director of Budget and Management shall submit a report to the President of the Senate and the Speaker of the House of Representatives. 80559
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Section 312.10. BUDGET STABILIZATION FUND TRANSFERS TO TAX AMNESTY PROGRAM 80563
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Notwithstanding any provision of law to the contrary, through June 30, 2006, the Director of Budget and Management shall transfer a one-time payment in the amount of \$2,000,000 from the Budget Stabilization Fund to appropriation item 110-630, Tax Amnesty Promotion and Administration (Fund 5BW), in the Department of Taxation. The funds shall be used to pay for expenses incurred in promoting and administering the tax amnesty program run by the Department of Taxation. 80565
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After receiving the revenue receipts from the tax amnesty program, the Director of Budget and Management shall transfer the first \$2,000,000 to the Budget Stabilization Fund, the next \$10,000,000 to the General Revenue Fund, and the remaining excess fund balance to the Budget Stabilization Fund. 80573
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Section 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT IMPLEMENTATION 80578
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On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer an amount not to exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2006, or as soon thereafter as possible, the Director of Budget and Management 80580
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shall transfer an amount not to exceed \$675,000 in cash from the 80585
General Revenue Fund to Fund 5N4, OAKS Project Implementation. 80586

Section 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 80587

Not later than the first day of June in each year of the 80588
biennium, the Director of Budget and Management shall transfer 80589
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 80590
Fund to the General Revenue Fund. 80591

Section 312.18. GRF TRANSFER TO THE NATIONAL GUARD 80592
SCHOLARSHIP RESERVE FUND 80593

On July 1, 2005, or as soon as possible thereafter, the 80594
Director of Budget and Management shall transfer an amount equal 80595
to the unencumbered balance as of June 30, 2004, in appropriation 80596
item 235-599, National Guard Scholarship Fund, from the General 80597
Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 80598
5BM). 80599

Section 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 80600
RE-ESTABLISHMENT OF ENCUMBRANCES 80601

Any cash transferred by the Director of Budget and Management 80602
under section 126.15 of the Revised Code is hereby appropriated. 80603
Any amounts necessary to re-establish appropriations or 80604
encumbrances under section 126.15 of the Revised Code are hereby 80605
appropriated. 80606

Section 312.24. TRANSFER FROM THE TOBACCO MASTER SETTLEMENT 80607
AGREEMENT FUND TO THE GENERAL REVENUE FUND 80608

Notwithstanding section 183.02 of the Revised Code, on July 80609
1, 2005, or as soon as possible thereafter, the Director of Budget 80610
and Management shall transfer \$5,000,000 cash from the Tobacco 80611
Master Settlement Agreement Fund (Fund 087) to the General Revenue 80612

Fund. Of the tobacco revenue that is credited to the Tobacco
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005,
the share that is determined pursuant to section 183.02 of the
Revised Code to be the amount transferred by the Director of
Budget and Management from the Tobacco Master Settlement Agreement
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust
Fund (Fund H87) shall be reduced by the amount that is transferred
from the Tobacco Master Settlement Agreement Fund (Fund 087) to
the General Revenue Fund under this division.

Section 312.27. Notwithstanding section 183.02 of the Revised
Code, on July 1, 2005, or as soon as possible thereafter, the
Director of Budget and Management shall transfer up to \$5,000,000
cash from the Tobacco Master Settlement Agreement Fund (Fund 087)
to the Healthy Ohioians Initiative Fund (Fund 5BL in the
Department of Health). Of the tobacco revenue that is credited to
the Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal
year 2005, the share that is determined pursuant to section 183.02
of the Revised Code to be the amount transferred by the Director
of Budget and Management from the Tobacco Master Settlement
Agreement Fund (Fund 087) to the Tobacco Use Prevention and
Cessation Trust Fund (Fund H87) shall be reduced by the amount
that is transferred from the Tobacco Master Settlement Agreement
Fund (Fund 087) to the Healthy Ohioians Initiative Fund (Fund 5BL)
under this section.

Section 315.03. CONSOLIDATION OF REGULATORY BOARDS

(A) It is the intent of the General Assembly to consolidate
the following health-related regulatory boards within the
Department of Health not later than July 1, 2006:

(1) The Chemical Dependency Professionals Board;

(2) The Board of Chiropractic Examiners;

(3) The Counselor, Social Worker, and Marriage and Family Therapist Board;	80643 80644
(4) The Ohio Board of Dietetics;	80645
(5) The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board;	80646 80647
(6) The Ohio Optical Dispensers Board;	80648
(7) The State Board of Optometry;	80649
(8) The State Board of Orthotics, Prosthetics, and Pedorthics;	80650 80651
(9) The State Board of Psychology;	80652
(10) The Ohio Respiratory Care Board;	80653
(11) The Board of Speech-Language Pathology and Audiology;	80654
(12) The State Veterinary Medical Licensing Board.	80655
(B) It is the intent of the General Assembly to consolidate the following regulatory boards and commissions within the Department of Commerce not later than July 1, 2006:	80656 80657 80658
(1) The Ohio Athletic Commission;	80659
(2) The Barber Board;	80660
(3) The State Board of Cosmetology;	80661
(4) The Board of Embalmers and Funeral Directors;	80662
(5) The Manufactured Homes Commission;	80663
(6) The Board of Motor Vehicle Collision Repair Registration;	80664
(7) The State Board of Sanitarian Registration.	80665
(C) It is the intent of the General Assembly to consolidate the Ohio Medical Transportation Board within the Department of Public Safety not later than July 1, 2006.	80666 80667 80668
(D) The Director of Budget and Management and the Directors	80669

of Administrative Services, Commerce, Health, and Public Safety 80670
shall appoint representatives to a transition team. 80671

The transition team shall develop a plan to ensure the smooth 80672
and timely consolidation of the boards into the respective 80673
departments. The transition team shall address the details of the 80674
consolidations, identifying necessary statutory changes and 80675
working with the Office of Budget and Management to develop 80676
budgets for the respective departments and the consolidated boards 80677
and commissions. The transition team may recommend additional 80678
regulatory boards or commissions to be consolidated and may 80679
recommend modifications to the planned consolidations. 80680

The transition team shall submit a report containing 80681
recommendations and the details for the consolidations not later 80682
than December 31, 2005, to the Governor, the Speaker of the House 80683
of Representatives, and the President of the Senate. The report 80684
and recommendations shall address the following issues, and may 80685
address additional issues: 80686

(1) The necessary levels of funding; 80687

(2) The savings projected as a result of the consolidations; 80688

(3) The consolidation of activities between each board or 80689
commission and the department providing centralized services, 80690
including the role of the members of the board or commission and 80691
the role of the department; 80692

(4) The staffing levels needed, whether employees must be 80693
retained, and whether any employees retained have civil service 80694
status; 80695

(5) The continuation of the standards and procedures of the 80696
board or commission; 80697

(6) The continuation of rules and whether any rules need to 80698
be amended as a result of the consolidations; 80699

(7) The transfer of assets, liabilities, and contractual obligations;	80700 80701
(8) The transfer of records and other materials pertaining to the board or commission.	80702 80703
(E) It is the intent of the General Assembly to introduce a bill in fiscal year 2006 that will include the necessary statutory changes to effect the consolidations and that will include revised appropriations for the departments and the consolidated boards and commissions for fiscal year 2007.	80704 80705 80706 80707 80708
Section 315.03.03. EFFICIENCY STUDY TO CREATE REORGANIZATION PLAN FOR THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT	80709 80710
(A) Within thirty days after the effective date of this section, the Department of Administrative Services shall commence an efficiency study that is designed to create a plan for the reorganization of the executive branch of state government that will achieve minimum total savings of twenty per cent in the current budgeted administrative costs for agencies, departments, divisions, public bodies, and programs of the state that are proposed to be transferred to the provisional Department of Business Coordination, provisional Department of Education, provisional Department of Finance and Operations, provisional Department of Human Resource Development, provisional Department of Public Health, provisional Department of Public Safety, provisional Department of Resource Protection, and provisional Department of Transportation and Infrastructure, all as created by Section 315.03.06 of this act, and that will achieve minimum total savings of ten per cent in the current budgeted administrative costs for agencies, departments, divisions, public bodies, and programs of the state that are proposed to be transferred to the provisional Department of Community and Institutional Rehabilitation, as created by Section 315.03.06 of this act.	80711 80712 80713 80714 80715 80716 80717 80718 80719 80720 80721 80722 80723 80724 80725 80726 80727 80728 80729 80730

(2) Agencies, departments, divisions, public bodies, and programs that are proposed to be transferred to a provisional department are transferred only for purposes of the efficiency study. This section and Section 315.03.06 of this act do not make nor intend to make any temporary or permanent structural changes to or in any such agency, department, division, public body, or program.

(B) The Department of Administrative Services shall use the results of the efficiency study to develop a detailed reorganization plan, to further reorganize the provisional departments, to eliminate duplication of effort among the provisional departments, and to prepare a final report on the reorganization plan that shall be delivered by electronic means to the Governor, the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate, and posted on the Department's web site, not later than January 1, 2007.

(C) The reorganization plan shall cover or include all of the following relating to the reorganization described in division (A) of this section:

- (1) Estimated costs;
- (2) Projected savings in real dollar amounts;
- (3) Projected improvements in service;
- (4) Anticipated effects on cost-sharing and management of federal grants;
- (5) Efficient citizen input into provisional department decisions;
- (6) Methods of ensuring accountability for results;
- (7) A proposed timetable for implementing the reorganization;
- (8) Any legislation that must be enacted to implement the

reorganization.	80761
Section 315.03.06. SPECIFIC PROVISIONAL DEPARTMENT STRUCTURES	80762
	80763
For purposes of the efficiency study required by Section	80764
315.03.03 of this act, there is hereby created each of the	80765
following:	80766
(A) A provisional Department of Education that shall consist	80767
of the following divisions and be headed by the provisional	80768
Executive Director of Education:	80769
(1) A Division of Primary and Secondary Education, headed by	80770
the chief of the Division;	80771
(2) A Division of Higher Education for Four-Year Colleges and	80772
Universities, headed by the chief of the Division;	80773
(3) A Division of Higher Education for Two-Year Colleges,	80774
headed by the chief of the Division;	80775
(4) A Division of Education Finance, headed by the chief of	80776
the Division;	80777
(5) A Division of Education Technology, headed by the chief	80778
of the Division;	80779
(6) A Division of Cultural Resources, headed by the chief of	80780
the Division.	80781
(B) A provisional Department of Public Safety that shall	80782
consist of the following divisions and be headed by the	80783
provisional Executive Director of Public Safety:	80784
(1) A Division of Uniformed Services, headed by the chief of	80785
the Division;	80786
(2) A Division of Public Safety Services, headed by the chief	80787
of the Division;	80788

(3) A Division of Homeland Security and Emergency Management,	80789
headed by the chief of the Division;	80790
(4) A Division of Grants and Disbursements, headed by the	80791
chief of the Division;	80792
(5) A Division of Prevention and Enforcement, headed by the	80793
chief of the Division.	80794
(C) A provisional Department of Public Health that shall	80795
consist of the following divisions and be headed by the	80796
provisional Executive Director of Public Health:	80797
(1) A Division of Health and Well-Being, headed by the chief	80798
of the Division;	80799
(2) A Division of Community Care Support Services, headed by	80800
the chief of the Division;	80801
(3) A Division of Medicaid Services, headed by the chief of	80802
the Division;	80803
(4) A Division of Medical Professional and State Healthcare	80804
System Regulation, headed by the chief of the Division;	80805
(5) A Division of Veterans' Affairs, headed by the chief of	80806
the Division.	80807
(D) A provisional Department of Transportation and	80808
Infrastructure that shall consist of the following divisions and	80809
be headed by the provisional Executive Director of Transportation	80810
and Infrastructure:	80811
(1) A Division of System Maintenance, headed by the chief of	80812
the Division;	80813
(2) A Division of System Regulation, headed by the chief of	80814
the Division;	80815
(3) A Division of System Design and Construction, headed by	80816
the chief of the Division;	80817

(4) A Division of Public Transportation, headed by the chief of the Division;	80818 80819
(5) A Division of Infrastructure Financing and Revenue Distribution, headed by the chief of the Division.	80820 80821
(E) A provisional Department of Finance and Operations that shall consist of the following divisions and be headed by the provisional Executive Director of Finance and Operations:	80822 80823 80824
(1) A General Services Division, headed by the chief of the Division;	80825 80826
(2) A Human Resources Division, headed by the chief of the Division;	80827 80828
(3) A Facilities and Maintenance Division, headed by the chief of the Division;	80829 80830
(4) An Information Technology Division, headed by the chief of the Division;	80831 80832
(5) A Division of Financial Operations, headed by the chief of the Division;	80833 80834
(6) A Division of Revenue Administration, headed by the chief of the Division.	80835 80836
(F) A provisional Department of Human Resource Development that shall consist of the following divisions and be headed by the provisional Executive Director of Human Resource Development:	80837 80838 80839
(1) An Employment Services Division, headed by the chief of the Division;	80840 80841
(2) A Rehabilitation Services Division, headed by the chief of the Division;	80842 80843
(3) A Children and Family Services Division, headed by the chief of the Division;	80844 80845
(4) A Human Rights Division, headed by the chief of the	80846

Division.	80847
(G) A provisional Department of Community and Institutional Rehabilitation that shall consist of the following divisions and be headed by the provisional Executive Director of Community and Institutional Rehabilitation:	80848 80849 80850 80851
(1) A Division of Corrections Officer Administration, headed by the chief of the Division;	80852 80853
(2) A Division of Correctional Support Services, headed by the chief of the Division;	80854 80855
(3) A Division of Correctional Facilities Maintenance, headed by the chief of the Division;	80856 80857
(4) A Division of Parole and Community Services, headed by the chief of the Division.	80858 80859
(H) A provisional Department of Business Coordination that shall consist of the following divisions and be headed by the provisional Executive Director of Business Coordination:	80860 80861 80862
(1) A Division of Licensing and Coordination, headed by the chief of the Division;	80863 80864
(2) A Division of Financial Institutions and Securities Coordination, headed by the chief of the Division;	80865 80866
(3) A Division of Building and Real Estate Coordination, headed by the chief of the Division;	80867 80868
(4) A Division of Insurance Coordination, headed by the chief of the Division.	80869 80870
(I) A provisional Department of Resource Protection that shall consist of the following divisions and be headed by the provisional Executive Director of Resource Protection:	80871 80872 80873
(1) A Division of Land, headed by the chief of the Division;	80874
(2) A Waste and Water Division, headed by the chief of the	80875

Division;	80876
(3) A Resource Quality Assurance Division, headed by the chief of the Division;	80877 80878
(4) A Division of Public Awareness, headed by the chief of the Division;	80879 80880
(5) A Division of Grants and Disbursements, headed by the chief of the Division.	80881 80882
Section 315.03.09. EXPIRATION OF PROVISIONAL DEPARTMENTS	80883
Sections 315.03.03 and 315.03.06 of this act shall expire on January 30, 2007.	80884 80885
Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM	80886 80887
All materials, assets, liabilities, and records of the Department of Education, irrespective of form or medium, deemed necessary by the Ohio School Facilities Commission to implement sections 3318.47, 3318.48, and 3318.49 of the Revised Code shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section, in accordance with a transition plan which shall be developed and approved by the Commission in consultation with the Department.	80888 80889 80890 80891 80892 80893 80894 80895
All current and pending loans and appropriations, encumbrances, and funds related to the Career-Technical School Building Assistance Fund (Fund 020), deemed necessary by the Commission to implement section 3318.48 of the Revised Code, shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section in accordance with the transition plan.	80896 80897 80898 80899 80900 80901 80902
Any business commenced but not completed by the Department on the effective date of this section relating to the implementation	80903 80904

of section 3318.48 of the Revised Code and the functions 80905
transferred by this section shall continue to be administered by 80906
the Department for a period of one hundred twenty days after the 80907
effective date of this section or until the transition plan 80908
described in this section is approved by the Commission, whichever 80909
occurs first. The Department shall provide the Commission whatever 80910
administrative assistance the Commission requires during the 80911
period of transition, which assistance shall be specified in the 80912
transition plan described in this section. 80913

Wherever any law, contract, or other document refers to the 80914
Department, the State Board of Education, or the Superintendent of 80915
Public Instruction in regard to the implementation or 80916
administration of section 3318.48 of the Revised Code, the 80917
references shall be deemed to refer to the Commission or the 80918
Director of the Commission. No action or proceeding pending on the 80919
effective date of this section relating to the implementation or 80920
administration of Chapter 3318. of the Revised Code is affected by 80921
the transfer. In all such actions and proceedings, the Commission 80922
or the Director shall be substituted as a party upon application 80923
by the receiving entity to the court or other appropriate 80924
tribunal. 80925

Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 80926
TELECOMMUNICATIONS NETWORK COMMISSION 80927

(A) Effective July 1, 2005, the Ohio Educational 80928
Telecommunications Network Commission is abolished and, subject to 80929
the recommendations of any task force appointed by the Governor to 80930
consider issues of administrative reorganization and approved by 80931
the Governor, its functions, assets, and liabilities, including 80932
but not limited to vehicles and equipment assigned to employees of 80933
the Commission and records of the Commission regardless of form or 80934
medium, are transferred to the agency designated by the Governor. 80935

The agency is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio Educational Telecommunications Network Commission. The functions of the Executive Director of the Commission are thereupon and thereafter transferred to the chief administrator of the agency designated by the Governor.

Any business commenced but not completed by the Ohio Educational Telecommunications Network Commission or the Executive Director of the Commission on July 1, 2005, shall be completed by the agency designated by the Governor or the chief administrator of that agency, respectively, in the same manner, and with the same effect, as if completed by the Ohio Educational Telecommunications Network Commission or the Executive Director of the Commission. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required under this section and shall be administered by the agency designated by the Governor. All of the Ohio Educational Telecommunications Network Commission's rules, orders, and determinations continue in effect as rules, orders, and determinations of the agency designated by the Governor, until modified or rescinded by that agency. If necessary to ensure the integrity of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Ohio Educational Telecommunications Network Commission's rules to reflect their transfer to the agency designated by the Governor.

(B) Employees of the Ohio Educational Telecommunications Network Commission shall be transferred to the agency designated by the Governor or dismissed in accordance with recommendations approved by the Governor under division (A) of this section. Subject to lay-off provisions of sections 124.321 to 124.328 of the Revised Code, and any applicable collective bargaining agreement entered into under Chapter 4117. of the Revised Code,

those employees of the Ohio Educational Telecommunications Network Commission so transferred to the agency designated by the Governor retain their positions and all of the benefits accruing thereto. Employees of the Ohio Educational Telecommunications Network Commission so dismissed cease to hold their positions of employment on July 1, 2005.

(C) No judicial or administrative action or proceeding in which the Ohio Educational Telecommunications Network Commission or the Executive Director of the Commission is a party that is pending on July 1, 2005, is affected by the transfer of functions under division (A) of this section. Such action or proceeding shall be prosecuted or defended in the name of the Director of the Office of Budget and Management. On application to the court or other tribunal, the Director of the Office of Budget and Management shall be substituted for the Executive Director of the Commission as a party to such action or proceeding.

(D) On and after July 1, 2005, when the Ohio Educational Telecommunications Network Commission or the Executive Director of the Ohio Educational Telecommunications Network Commission is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the agency designated by the Governor or the chief administrator of that agency, respectively.

Section 315.10. ELIMINATION OF THE OHIO SCHOOLNET COMMISSION

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is abolished and, subject to the recommendations of any task force appointed by the Governor to consider issues of administrative reorganization and approved by the Governor, its functions, assets, and liabilities, including, but not limited to, vehicles and equipment assigned to employees of the Commission and records of the Commission regardless of form or medium, are transferred to

the agency designated by the Governor. The agency is thereupon and
thereafter successor to, assumes the obligations of, and otherwise
constitutes the continuation of the Ohio SchoolNet Commission. The
functions of the Executive Director of the Commission are
thereupon and thereafter transferred to the chief administrator of
the agency designated by the Governor.

Any business commenced but not completed by the Ohio
SchoolNet Commission or the Executive Director of the Commission
on July 1, 2005, shall be completed by the agency designated by
the Governor or the chief administrator of that agency,
respectively, in the same manner, and with the same effect, as if
completed by the Ohio SchoolNet Commission or the Executive
Director of the Commission. No validation, cure, right, privilege,
remedy, obligation, or liability is lost or impaired by reason of
the transfer required under this section and shall be administered
by the agency designated by the Governor. All of the Ohio
SchoolNet Commission's rules, orders, and determinations continue
in effect as rules, orders, and determinations of the agency
designated by the Governor, until modified or rescinded by that
agency. If necessary to ensure the integrity of the Administrative
Code, the Director of the Legislative Service Commission shall
renumber the Ohio SchoolNet Commission's rules to reflect their
transfer to the agency designated by the Governor.

(B) Employees of the Ohio SchoolNet Commission shall be
transferred to the agency designated by the Governor or dismissed
in accordance with recommendations approved by the Governor under
division (A) of this section. Subject to lay-off provisions of
sections 124.321 to 124.328 of the Revised Code, those employees
of the Ohio SchoolNet Commission so transferred to the agency
designated by the Governor retain their positions and all of the
benefits accruing thereto. Employees of the Ohio SchoolNet
Commission so dismissed cease to hold their positions of

employment on July 1, 2005. 81031

Ohio SchoolNet Commission employees transferred under 81032
provisions of this section shall remain in the unclassified 81033
service of the state. 81034

The reassignment of the functions and duties of Ohio 81035
SchoolNet Commission employees under this section is not a subject 81036
appropriate for collective bargaining under Chapter 4117. of the 81037
Revised Code. All positions of any Ohio SchoolNet Commission 81038
employees transferred to the agency designated by the Governor 81039
under this section shall not be subject to Chapter 4117. of the 81040
Revised Code in the same manner as when those positions were under 81041
the authority of the Ohio SchoolNet Commission. 81042

(C) No judicial or administrative action or proceeding in 81043
which the Ohio SchoolNet Commission or the Executive Director of 81044
the Commission is a party that is pending on July 1, 2005, is 81045
affected by the transfer of functions under division (A) of this 81046
section. Such action or proceeding shall be prosecuted or defended 81047
in the name of the Director of the Office of Budget and 81048
Management. On application to the court or other tribunal, the 81049
Director of the Office of Budget and Management shall be 81050
substituted for the Executive Director of the Commission as a 81051
party to such action or proceeding. 81052

(D) On and after July 1, 2005, when the Ohio SchoolNet 81053
Commission or the Executive Director of the Ohio SchoolNet 81054
Commission is referred to in any statute, rule, contract, grant, 81055
or other document, the reference is hereby deemed to refer to the 81056
agency designated by the Governor or the chief administrator of 81057
that agency, respectively. 81058

Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES 81059

On and after July 1, 2005, notwithstanding any provision of 81060

law to the contrary, the Director of Budget and Management is 81061
authorized to take the actions described in this section with 81062
respect to budget changes made necessary by administrative 81063
reorganization, program transfers, the creation of new funds, and 81064
the consolidation of funds as authorized by this act. The Director 81065
may make any transfer of cash balances between funds. At the 81066
request of the Director, the controlling authority of the agencies 81067
designated by the Governor under Section 315.09 or 315.10 of this 81068
act shall certify to the Director an estimate of the amount of the 81069
cash balance to be transferred to the receiving funds. The 81070
Director may transfer the estimated amount when needed to make 81071
payments. Not more than thirty days after certifying the estimated 81072
amount, the controlling authority of the agencies shall certify 81073
the final amount to the Director. The Director shall transfer the 81074
difference between any amount previously transferred and the 81075
certified final amount. The Director may cancel encumbrances and 81076
re-establish encumbrances or parts of encumbrances as needed in 81077
fiscal year 2006 in the appropriate funds and appropriation items 81078
for the same purposes. The appropriation authority necessary to 81079
re-establish such encumbrances in fiscal year 2006 as determined 81080
by the Director, in a different fund or appropriation item, within 81081
an agency or between agencies, is hereby appropriated. When 81082
re-established encumbrances or parts of re-established 81083
encumbrances are cancelled, the Director shall reduce the 81084
appropriations for these respective funds and appropriation items 81085
by the amount of the encumbrances cancelled. The amounts cancelled 81086
are hereby authorized. Any fiscal year 2005 unencumbered or 81087
unallotted appropriation balances may be transferred to the 81088
appropriate funds and appropriation items to be used for the same 81089
purposes, as determined by the Director. The amounts transferred 81090
are hereby appropriated. 81091

Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

81092

Certain appropriations are in this act for the purpose of 81093
paying debt service and financing costs on general obligation 81094
bonds or notes of the state issued pursuant to the Ohio 81095
Constitution and acts of the General Assembly. If it is determined 81096
that additional appropriations are necessary for this purpose, 81097
such amounts are hereby appropriated. 81098

Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF 81099
STATE 81100

Certain appropriations are in this act for the purpose of 81101
making lease payments pursuant to leases and agreements relating 81102
to bonds or notes issued by the Ohio Building Authority or the 81103
Treasurer of State or, previously, by the Ohio Public Facilities 81104
Commission, pursuant to the Ohio Constitution and acts of the 81105
General Assembly. If it is determined that additional 81106
appropriations are necessary for this purpose, such amounts are 81107
hereby appropriated. 81108

Section 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM 81109
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 81110

The Office of Budget and Management shall initiate and 81111
process disbursements from general obligation and lease rental 81112
payment appropriation items during the period from July 1, 2005, 81113
to June 30, 2007, relating to bonds or notes issued under Sections 81114
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 81115
and Chapters 151. and 154. of the Revised Code. Disbursements 81116
shall be made upon certification by the Treasurer of State of the 81117
dates and the amounts due on those dates. 81118

Section 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 81119
DEVELOPMENT OFFICE 81120

The Ohio Public Facilities Commission, upon the request of 81121

the Director of the Ohio Coal Development Office of the Ohio Air
Quality Development Authority with the advice of the Technical
Advisory Committee created in section 1551.35 of the Revised Code
and the approval of the Executive Director of the Ohio Air Quality
Development Authority, is hereby authorized to issue and sell, in
accordance with Section 15 of Article VIII, Ohio Constitution, and
Chapter 151. and particularly sections 151.01 and 151.07 of the
Revised Code, bonds and other obligations of the State of Ohio in
an aggregate principal amount not to exceed \$15,000,000 in
addition to the issuance of obligations heretofore authorized by
prior acts of the General Assembly. The obligations shall be
dated, issued, and sold from time to time in such amounts as may
be necessary to provide sufficient moneys to the credit of the
Coal Research and Development Fund created in section 1555.15 of
the Revised Code to pay costs charged to the fund when due.

Section 321.03. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by
or pursuant to the applicable proceedings authorizing the issuance
of state obligations, amounts computed at the time to represent
the portion of investment income to be rebated or amounts in lieu
of or in addition to any rebate amount to be paid to the federal
government in order to maintain the exclusion from gross income
for federal income tax purposes of interest on those state
obligations under section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office
of Budget and Management.

Section 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash
Management Improvement Act required by section 131.36 of the
Revised Code, the Director of Budget and Management may cancel and

re-establish all or part of encumbrances in like amounts within 81152
the funds identified by the plan. The amounts necessary to 81153
re-establish all or part of encumbrances are hereby appropriated. 81154

Section 321.09. STATEWIDE INDIRECT COST RECOVERY 81155

Whenever the Director of Budget and Management determines 81156
that an appropriation made to a state agency from a fund of the 81157
state is insufficient to provide for the recovery of statewide 81158
indirect costs under section 126.12 of the Revised Code, the 81159
amount required for such purpose is hereby appropriated from the 81160
available receipts of such fund. 81161

Section 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 81162
INDIRECT COST ALLOCATION PLAN 81163

The total transfers made from the General Revenue Fund by the 81164
Director of Budget and Management under this section shall not 81165
exceed the amounts transferred into the General Revenue Fund under 81166
division (B) of section 126.12 of the Revised Code. 81167

The director of an agency may certify to the Director of 81168
Budget and Management the amount of expenses not allowed to be 81169
included in the Statewide Indirect Cost Allocation Plan under 81170
federal regulations, from any fund included in the Statewide 81171
Indirect Cost Allocation Plan, prepared as required by section 81172
126.12 of the Revised Code. 81173

Upon determining that no alternative source of funding is 81174
available to pay for such expenses, the Director of Budget and 81175
Management may transfer from the General Revenue Fund into the 81176
fund for which the certification is made, up to the amount of the 81177
certification. The director of the agency receiving such funds 81178
shall include, as part of the next budget submission prepared 81179
under section 126.02 of the Revised Code, a request for funding 81180
for such activities from an alternative source such that further 81181

federal disallowances would not be required. 81182

Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 81183

Notwithstanding any provision of law to the contrary, on or 81184
before the first day of September of each fiscal year, the 81185
Director of Budget and Management, in order to reduce the payment 81186
of adjustments to the federal government, as determined by the 81187
plan prepared under division (A) of section 126.12 of the Revised 81188
Code, may designate such funds as the director considers necessary 81189
to retain their own interest earnings. 81190

Section 401.05. That Sections 16.09, 19.01, 20.01, 22.03, 81191
23.11, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 81192
of the 126th General Assembly be amended to read as follows: 81193

Appropriations

Sec. 16.09.	OSB SCHOOL FOR THE BLIND			81194
CAP-774	Glass Windows/E Wall of Natatorium	\$	63,726	81195
CAP-775	Renovation of Science Lab Greenhouse	\$	58,850	81196
CAP-776	Renovating Recreation Area	\$	213,900	81197
CAP-777	New Classrooms for Secondary MH Program	\$	880,407	81198
CAP-778	Renovation of Student Health Service Area	\$	144,375	81199
CAP-779	Replacement of Cottage Windows	\$	208,725	81200
CAP- 780	New School Lighting	\$	184,500	81201
<u>782</u>				
CAP-781	Food Prep. Area Air Conditioning	\$	67,250	81202
Total School for the Blind		\$	1,821,733	81203

Sec. 19.01. All items set forth in this section are hereby 81204
appropriated out of any moneys in the state treasury to the credit 81205
of the Cultural and Sports Facilities Building Fund (Fund 030) 81206
that are not otherwise appropriated. 81207

		Appropriations	
AFC CULTURAL FACILITIES COMMISSION			81208
CAP-010	Sandusky State Theatre Improvements	\$ 325,000	81209
CAP-013	Stambaugh Hall Improvements	\$ 250,000	81210
CAP-033	Woodward Opera House Renovation	\$ 100,000	81211
CAP-038	Center Exhibit Replacement	\$ 816,000	81212
CAP-043	Statewide Site Repairs	\$ 100,000	81213
CAP-044	National Underground Railroad Freedom Center	\$ 4,150,000	81214
CAP-046	Cincinnati Museum Center Improvements	\$ 250,000	81215
CAP-052	Akron Art Museum	\$ 1,012,500	81216
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$ 250,000	81217
CAP-065	Beck Center for the Cultural Arts	\$ 100,000	81218
CAP-069	Cleveland Institute of Art	\$ 250,000	81219
CAP-071	Cleveland Institute of Music	\$ 750,000	81220
CAP-073	Marina District/Ice Arena Development	\$ 3,500,000	81221
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$ 750,000	81222
CAP-745	Emergency Repairs	\$ 838,560	81223
CAP-769	Rankin House State Memorial	\$ 192,000	81224
CAP-781	Archives and Library Automation	\$ 624,000	81225
CAP-784	Center Rehabilitation	\$ 960,000	81226
CAP-806	Grant Boyhood Home Improvements	\$ 480,000	81227
CAP-812	Schuster Arts Center	\$ 5,500,000	81228
CAP-823	Marion Palace Theatre	\$ 750,000	81229
CAP-826	Renaissance Theatre	\$ 750,000	81230
CAP-834	Galion Historic Big Four Depot Restoration	\$ 170,000	81231
CAP-835	Jamestown Opera House	\$ 125,000	81232
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$ 1,850,000	81233
CAP-845	Lima Historic Athletic Field	\$ 100,000	81234

CAP-846	Butler Palace Theatre	\$	100,000	81235
CAP-847	Voice of America Museum	\$	275,000	81236
CAP-848	Oxford Arts Center ADA Project	\$	72,000	81237
CAP-849	Clark County Community Arts Expansion Project	\$	500,000	81238
CAP-850	Westcott House Historic Site	\$	75,000	81239
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000	81240
CAP-852	Miami Township Community Amphitheatre	\$	50,000	81241
CAP-853	Western Reserve Historical Society	\$	1,000,000	81242
CAP-854	Steamship Mather Museum	\$	100,000	81243
CAP-855	Rock and Roll Hall of Fame	\$	250,000	81244
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000	81245
CAP-857	Merrick House Historic Site	\$	250,000	81246
CAP-858	Strongsville Historic Building	\$	100,000	81247
CAP-859	Arts Castle	\$	100,000	81248
CAP-860	Great Lakes Historical Society	\$	325,000	81249
CAP-861	Ohio Glass Museum	\$	250,000	81250
CAP-862	Goll Wood Homestead	\$	50,000	81251
CAP-863	Ariel Theatre	\$	100,000	81252
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000	81253
CAP-865	Kennedy Stone House	\$	15,000	81254
CAP-866	Sports Facilities Improvements - Cincinnati	\$	4,350,000	81255
CAP-867	Ensemble Theatre	\$	450,000	81256
CAP-868	Taft Museum	\$	500,000	81257
CAP-869	Art Academy of Cincinnati	\$	100,000	81258
CAP-870	Riverbend Pavilion Improvements	\$	250,000	81259
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000	81260
CAP-872	Music Hall: Over-The-Rhine	\$	750,000	81261
CAP-873	John Bloomfield Home Restoration	\$	115,000	81262
CAP-874	Malinta Historical Society Caboose	\$	6,000	81263

Exhibit				
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000	81264
CAP-876	Art Deco Markay Theater	\$	200,000	81265
CAP-877	Harvey Wells House	\$	100,000	81266
CAP-878	Bryn Du	\$	250,000	81267
CAP-879	Broad Street Historical Renovation	\$	300,000	81268
CAP-880	Amherst Historical Society	\$	35,000	81269
CAP-881	COSI - Toledo	\$	1,900,000	81270
CAP-882	Ohio Theatre - Toledo	\$	100,000	81271
CAP-883	Chester Academy Historic Site Renovations	\$	25,000	81272
CAP-884	Bradford Ohio Railroad Museum	\$	100,000	81273
CAP-885	Montgomery County Historical Society Archives	\$	100,000	81274
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000	81275
CAP-887	Aurora Outdoor Sports Complex	\$	50,000	81276
CAP-888	Preble County Historical Society	\$	100,000	81277
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000	81278
CAP-890	Pro Football Hall of Fame	\$	400,000	81279
CAP-891	MAPS Air Museum	\$	15,000	81280
CAP-892	Foundation Community Theatre <u>Theatre</u>	\$	50,000	81281
CAP-893	William McKinley Library Restoration	\$	250,000	81282
CAP-894	Hale Farm & Village	\$	250,000	81283
CAP-895	Blossom Music Center	\$	2,512,500	81284
CAP-896	Richard Howe House	\$	100,000	81285
CAP-897	Ward-Thomas Museum	\$	30,000	81286
CAP-898	Packard Music Hall Renovation Project	\$	100,000	81287
CAP-899	Holland Theatre	\$	100,000	81288
CAP-900	Van Wert Historical Society	\$	32,000	81289
CAP-901	Warren County Historical Society	\$	225,000	81290
CAP-902	Marietta Colony Theatre	\$	335,000	81291
CAP-903	West Salem Village Opera House	\$	92,000	81292
CAP-904	Beavercreek Community Theater	\$	100,000	81293

CAP-905	Smith Orr Homestead	\$	100,000	81294
Total Cultural Facilities Commission		\$	43,592,560	81295
			<u>41,080,060</u>	
TOTAL Cultural and Sports Facilities Building Fund		\$	43,592,560	81296
			<u>41,080,060</u>	

Sec. 20.01. All items set forth in this section are hereby 81298
appropriated out of any moneys in the state treasury to the credit 81299
of the Ohio Parks and Natural Resources Fund (Fund 031) that are 81300
not otherwise appropriated. 81301

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES				81302
STATEWIDE AND LOCAL PROJECTS				81303
CAP-012	Land Acquisition	\$	750,000	81304
CAP-051	Buck Creek State Park - Camp/Dock	\$	25,000	81305
Renovations				
CAP-060	East Fork State Park Renovation	\$	50,000	81306
CAP-080	Atwood Lake Conservancy District	\$	75,000	81307
CAP-083	John Bryan State Park Shelter	\$	30,000	81308
Construction				
CAP-084	Findley State Park General Improvements	\$	12,500	81309
CAP-085	The Wilds Carnivore Center	\$	1,000,000	81310
CAP-086	Scippo Creek Conservation	\$	75,000	81311
CAP-087	Belpre City Swimming Pool	\$	125,000	81312
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam	\$	25,000	81313
Removal				
CAP-748	Local Parks Projects - Statewide	\$	2,511,079	81314
CAP-753	Project Planning	\$	1,144,316	81315
CAP-881	Dam Rehabilitation	\$	5,000,000	81316
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000	81317
Total Statewide and Local Projects		\$	13,722,895	81318
			<u>12,722,895</u>	81319
Total Department of Natural Resources		\$	13,722,895	81320

		<u>12,722,895</u>	81321
TOTAL Ohio Parks and Natural Resources Fund	\$	13,722,895	81322
		<u>12,722,895</u>	81323

Appropriations

Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH			81325
CAP-479 Community Assistance Projects	\$	1,800,000	81326
		<u>1,900,000</u>	
CAP-978 Infrastructure Improvements	\$	8,050,000	81327
CAP-989 Cleveland Christian Home	\$	100,000	81328
Total Department of Mental Health	\$	9,950,000	81329

COMMUNITY ASSISTANCE PROJECTS 81330

Of the foregoing appropriation item CAP-479, Community 81331
Assistance Projects, \$200,000 shall be used for the Center for 81332
Families and Children, \$100,000 shall be used for the Cleveland 81333
Christian Home, and \$100,000 shall be used for the Berea 81334
Children's Home. 81335

Sec. 23.11. UCN UNIVERSITY OF CINCINNATI			81336
CAP-009 Basic Renovations	\$	7,022,622	81337
CAP-018 Basic Renovations-Clermont	\$	198,926	81338
CAP-054 Basic Renovations-Walters	\$	336,439	81339
CAP-131 Cinergy Convention Center	\$	2,500,000	81340
CAP-174 Classroom/Teaching Laboratory	\$	3,280,000	81341
Renovations			
CAP-176 Network Expansion	\$	1,820,000	81342
CAP-205 Medical Science Building	\$	5,870,374	81343
CAP-209 Library Renovations	\$	1,450,000	81344
CAP-224 Van Wormer Administrative Building	\$	2,632,000	81345
Rehabilitation			
CAP-263 Swift Rehabilitation	\$	9,000,000	81346
CAP-265 Rieveschl/Crosley Rehab/Expansion	\$	619,579	81347

CAP-269	Raymond Walters Veterinary College	\$	1,244,131	81348
CAP-313	Expand Clermont	\$	657,770	81349
CAP-329	Uptown Consortium Renovation of Turner Place	\$	250,000	81350
<u>CAP-XXX</u>	<u>People Working Cooperatively</u>	\$	<u>100,000</u>	81351
Total University of Cincinnati		\$	36,881,841	81352
			<u>36,981,841</u>	

Appropriations

Sec. 23.12.	CLS CLEVELAND STATE UNIVERSITY			81354
CAP-023	Basic Renovations	\$	3,267,875	81355
CAP-125	College of Education Building	\$	8,057,262	81356
CAP-130	WVIZ Technology Center/Playhouse Square	\$	750,000	81357
CAP-152	Rhodes Tower-Data Center Relocation	\$	1,000,000	81358
CAP-153	University Annex-Vacation and Demolition	\$	49,390	81359
CAP-154	Main Classroom Stair Tower & Entry	\$	1,500,000	81360
CAP-155	Cleveland Playhouse	\$	250,000	81361
CAP-156	Physical Education Building Rehabilitation	\$	1,000,000	81362
Total Cleveland State University		\$	15,874,527	81363
			<u>15,124,527</u>	

Appropriations

Sec. 23.13.	KSU KENT STATE UNIVERSITY			81365
CAP-022	Basic Renovations	\$	3,573,078	81366
CAP-105	Basic Renovations-East Liverpool	\$	151,408	81367
CAP-106	Basic Renovations-Geauga	\$	45,607	81368
CAP-107	Basic Renovations-Salem	\$	105,640	81369
CAP-108	Basic Renovations-Stark	\$	325,358	81370
CAP-110	Basic Renovations-Ashtabula	\$	177,801	81371
CAP-111	Basic Renovations-Trumbull	\$	347,695	81372
CAP-112	Basic Renovations-Tuscarawas	\$	171,699	81373

CAP-212	Health Science Building, Planning	\$	705,720	81374
CAP-235	Rehabilitation of Franklin Hall	\$	13,923,684	81375
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$	638,419	81376
CAP-261	Addition/Renovation of Classrooms-Geauga	\$	246,878	81377
CAP-262	Gym Renovation Planning-Salem	\$	490,213	81378
CAP-263	Parking Lot & Roadway Paving-Stark	\$	162,076	81379
CAP-264	Fine Arts Building & New Campus Center-Stark	\$	1,000,000	81380
CAP-265	Science Lab Addition-Trumbull	\$	991,786	81381
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$	844,655	81382
CAP-267	Columbiana County Port Authority	\$	875,000	81383
CAP-268	Canton Convention Center	\$	735,000	81384
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$</u>	<u>2,512,500</u>	81385
Total Kent State University		\$	25,511,717 <u>28,024,217</u>	81386

Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE 81388

Appropriations

CAP-031	Basic Renovations	\$	2,428,960	81389
CAP-079	Cleveland Art Museum Improvements	\$	3,000,000	81390
CAP-094	Collegewide Wayfinding Signage System	\$	1,067,510	81391
CAP-095	Collegewide Asset Protection and Building Codes Upgrade	\$	1,491,522	81392
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264	81393
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	<u>\$</u>	<u>750,000</u>	81394
Total Cuyahoga Community College		\$	14,038,256 <u>14,788,256</u>	81395

Sec. 23.45. STC STARK TECHNICAL COLLEGE 81396

CAP-004	Basic Renovations	\$	438,295	81397
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CAP-035	Business Technologies Addition Rehabilitation	\$ 1,378,892	81398
CAP-037	Fuel Cell Initiative	\$ 250,000	81399
	Total Stark Technical College	\$ 2,067,187	81400
	Total Board of Regents and State Institutions of Higher Education	\$ 488,343,998 <u>490,956,498</u>	81401 81402
	TOTAL Higher Education Improvement Fund	\$ 489,371,036 <u>491,983,536</u>	81403

Sec. 24.01. All items set forth in this section are hereby 81405
appropriated out of any moneys in the state treasury to the credit 81406
of the Parks and Recreation Improvement Fund (Fund 035) that are 81407
not otherwise appropriated. 81408

Appropriations

	DNR DEPARTMENT OF NATURAL RESOURCES		81409
CAP-004	Burr Oak Lodge	\$ 150,000	81410
CAP-012	Land Acquisition	\$ 243,663	81411
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	\$ <u>1,000,000</u>	81412
CAP-088	Muskingum River Lock and Dam	\$ 250,000	81413
CAP-234	State Park Campgrounds, Cabins, and Lodges	\$ 2,712,500	81414
CAP-331	Park Boating Facilities	\$ 7,588,383	81415
CAP-701	Buckeye Lake State Park - Dam Rehabilitation	\$ 4,000,000	81416
CAP-718	Grand Lake St. Mary's State Park Erosion Control Project	\$ 450,000	81417
CAP-748	Local Park Projects	\$ 2,715,000	81418
CAP-753	Project Planning	\$ 175,000	81419
CAP-848	Hazardous Dam Repair - Statewide	\$ 1,325,000	81420
CAP-876	Statewide Trails	\$ 1,101,500	81421
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$ 2,500,000	81422

Total Department of Natural Resources	\$	23,211,046	81423
		<u>24,211,046</u>	81424
TOTAL Parks and Recreation Improvement Fund	\$	23,211,046	81425
		<u>24,211,046</u>	81426
FEDERAL REIMBURSEMENT			81427
All reimbursements received from the federal government for			81428
any expenditures made pursuant to this section shall be deposited			81429
in the state treasury to the credit of the Parks and Recreation			81430
Improvement Fund (Fund 035).			81431
LOCAL PARKS PROJECTS			81432
Of the foregoing appropriation item CAP-748, Local Parks			81433
Projects, \$75,000 shall be used for the Springfield Arts Veterans'			81434
Park; \$50,000 shall be used for the Village of Bentleyville Park;			81435
\$25,000 shall be used for the Cleveland Police and Firefighters			81436
Memorial Park; \$100,000 shall be used for the Parma Heights			81437
Greenbriar Park; \$125,000 shall be used for the Fairborn Park			81438
Entrance Project; \$250,000 shall be used for the Greene County			81439
Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000			81440
shall be used for the Colerain Township Park Improvements;			81441
\$200,000 shall be used for the Colerain Township Heritage Park;			81442
\$75,000 shall be used for the London Park Project; \$50,000 shall			81443
be used for Somerset Park Improvements; \$50,000 shall be used for			81444
Meadowbrook Park; \$25,000 shall be used for Early Hill Park;			81445
\$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000			81446
shall be used for Madison Township Park; \$10,000 shall be used for			81447
the Wellington Soccer Field Park; \$10,000 shall be used for the			81448
Greenwich Township Baseball Field Park Improvements; \$20,000 shall			81449
be used for the City of London Sports Park; \$25,000 shall be used			81450
for the Pleasant Hill Park Ball Field Project; and \$250,000 shall			81451
be used for the Education Gateway at Sippo Lake Park.			81452
STATEWIDE TRAILS PROGRAM			81453

Of the foregoing appropriation item CAP-876, Statewide Trails, \$85,000 shall be used for the Williamsburg-Batavia hike/bike trail; \$16,500 shall be used for the South Milford Road Bike Trail Project; \$125,000 shall be used for the Tri-County Triangle Trail in Fayette county; ~~\$100,00~~ \$100,000 shall be used for the Tri-County Triangle Trail in Highland County; \$125,000 shall be used for the Tri-County Triangle Trail in Ross county; \$550,000 shall be used for the Camp Chase Ohio to Erie Trail; and \$100,000 shall be used for the Holmes County Park District - Rails to Trails.

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Section 401.06. That existing Sections 16.09, 19.01, 20.01, 22.03, 23.11, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly are hereby repealed.

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Section 401.11. That Sections 203.03.09 and 203.03.10 of Am. Sub. H.B. 68 of the 126th General Assembly be amended to read as follows:

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Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES

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Of the foregoing appropriation item 772-421, Highway Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each fiscal year during the fiscal year 2006-2007 biennium by the Department of Transportation for the construction, reconstruction, or maintenance of public access roads, including support features, to and within state facilities owned or operated by the Department of Natural Resources, as requested by the Director of Natural Resources.

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Notwithstanding section 5511.06 of the Revised Code, of the foregoing appropriation item 772-421, Highway Construction - State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 biennium shall be used by the Department of Transportation for the

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construction, reconstruction, or maintenance of park drives or 81483
park roads within the boundaries of metropolitan parks. 81484

Included in the foregoing appropriation item 772-421, Highway 81485
Construction - State, the department may perform related road work 81486
on behalf of the Ohio Expositions Commission at the state 81487
fairgrounds, including reconstruction or maintenance of public 81488
access roads and support features, to and within fairground 81489
facilities as requested by the commission and approved by the 81490
Director of Transportation. 81491

LIQUIDATION OF UNFORESEEN LIABILITIES 81492

Any appropriation made to the Department of Transportation, 81493
Highway Operating Fund, not otherwise restricted by law, is 81494
available to liquidate unforeseen liabilities arising from 81495
contractual agreements of prior years when the prior year 81496
encumbrance is insufficient. 81497

Sec. 203.03.10. PREVENTIVE MAINTENANCE 81498

The Department of Transportation shall contract with an 81499
independent party to ~~issue a yearly report~~ conduct a study and 81500
issue a report on the effectiveness and progress of preventive 81501
maintenance projects ~~that meet warranty guidelines. The~~ 81502
Thereafter, the Department shall issue a yearly report on or 81503
before the first day of December for three consecutive years 81504
~~beginning in fiscal year 2005.~~ 81505

~~The Department shall provide in its annual report data on~~ 81506
actual and planned pavement preventive maintenance activities. The 81507
data shall include the following: (1) the total number of lane 81508
miles receiving preventive maintenance treatment, by treatment 81509
type and highway system category; (2) the total number of lane 81510
miles programmed to receive treatment; (3) the actual costs of the 81511
pavement preventive maintenance activities per lane mile, by 81512

treatment type and highway system category; (4) the total number of lane miles rehabilitated or reconstructed; and (5) the actual cost per lane mile of rehabilitated or reconstructed highway, by highway system category.

Section 401.12. That existing Sections 203.03.09 and 203.03.10 of Am. Sub. H.B. 68 of the 126th General Assembly are hereby repealed.

Section 401.13. Notwithstanding section 5511.05 of the Revised Code, the Director of Transportation shall confer with the Director of Natural Resources in fiscal years 2006 and 2007 concerning the establishment, construction, reconstruction, improvement, repair, and maintenance of all roads and bridges within the boundaries of all state parks, including all such parks and properties under the control and custody of the Department of Natural Resources. After conferring with the Director of Natural Resources, the Director of Transportation shall establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges. \$5,000,000 shall be expended to establish, construct, reconstruct, improve, repair, and maintain all such roads and bridges in each fiscal year.

Section 403.05. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

REVISED CODE 81538

OR

UNCODIFIED 81539

AGENCY NAME SECTION 81540

Administrator, Interstate Compact on Mental Health	5119.50	81541
Administrator, Interstate Compact on Placement of Children	5103.20	81542
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	81544
Advisory Boards to the EPA for Air Pollution	121.13	81545
Advisory Boards to the EPA for Water Pollution	121.13	81546
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)	81547
Advisory Committee on Livestock Exhibitions	901.71	81548
Advisory Council on Amusement Ride Safety	1711.51	81549
Advisory Board of Directors for Prison Labor	5145.162	81550
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18	81551
Advisory Councils or Boards for State Departments	107.18 or 121.13	81552
Advisory Group to the Ohio Water Resources Council	1521.19(C)	81553
Alzheimer's Disease Task Force	173.04(F)	81554
AMBER Alert Advisory Committee	5502.521	81555
Apprenticeship Council	4139.02	81556
Armory Board of Control	5911.09	81557
Automated Title Processing Board	4505.09(C)(1)	81558
Banking Commission	1123.01	81559
Board of Directors of the Ohio Health Reinsurance Program	3924.08	81560
Board of Voting Machine Examiners	3506.05(B)	81561
Board of Tax Appeals	5703.02	81562
Brain Injury Advisory Committee	3304.231	81563
Capitol Square Review and Advisory Board	105.41	81564
Child Support Guideline Advisory Council	3119.024	81565
Children's Trust Fund Board	3109.15	81566
Citizens Advisory Committee (BMV)	4501.025	81567
Citizen's Advisory Councils (Dept. of Mental	5123.092	81568

Retardation and Developmental Disabilities)		
Clean Ohio Trail Advisory Board	1519.06	81569
Coastal Resources Advisory Council	1506.12	81570
Commission on African-American Males	4112.12	81571
Commission on Hispanic-Latino Affairs	121.31	81572
Commission on Minority Health	3701.78	81573
Committee on Prescriptive Governance	4723.49	81574
Commodity Advisory Commission	926.32	81575
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	81576
Community Oversight Council	3311.77	81577
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	81578
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	81579
Continuing Education Committee (for Sheriffs)	109.80	81580
Controlling Board	127.12	81581
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	81582
Council on Alcohol and Drug Addiction Services	3793.09	81583
Council on Unreclaimed Strip Mined Lands	1513.29	81584
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	81585
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	81586
Credit Union Council	1733.329	81587
Criminal Sentencing Advisory Committee	181.22	81588
Day-Care Advisory Council	5104.08	81589
Dentist Loan Repayment Advisory Board	3702.92	81590
Development Financing Advisory Council	122.40	81591
Education Commission of the States (Interstate	3301.48	81592

Compact for Education)		
Electrical Safety Inspector Advisory Committee	3783.08	81593
Emergency Response Commission	3750.02	81594
Engineering Experiment Station Advisory Committee	3335.27	81595
Environmental Education Council	3745.21	81596
Environmental Review Appeals Commission	3745.02	81597
EPA Advisory Boards or Councils	121.13	81598
Farmland Preservation Advisory Board	901.23	81599
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	81600
Financial Planning & Supervision Commission for School District	3316.05	81601
Forestry Advisory Council	1503.40	81602
Governance Authority for a State University or College	3345.75	81603
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	81604
Governor's Council on People with Disabilities	3303.41	81605
Governor's Residence Advisory Commission	107.40	81606
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	81607
Gubernatorial Transition Committee	107.29	81608
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	81609
Hemophilia Advisory Subcommittee	3701.0210	81610
Housing Trust Fund Advisory Committee	175.25	81611
Industrial Commission Nominating Council	4121.04	81612
Industrial Technology and Enterprise Advisory Council	122.29	81613
Infant Hearing Screening Subcommittee	3701.507	81614
Insurance Agent Education Advisory Council	3905.483	81615
Interagency Council on Hispanic/Latino Affairs	121.32(J)	81616
Interstate Mining Commission (Interstate Mining	1514.30	81617

Compact)		
Interstate Rail Passenger Advisory Council	4981.35	81618
(Interstate High Speed Intercity Rail Passenger Network Compact)		
Joint Council on MR/DD	101.37	81619
Joint Select Committee on Volume Cap	133.021	81620
Labor-Management Government Advisory Council	4121.70	81621
Legal Rights Service Commission	5123.60	81622
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	81623
Maternal and Child Health Council	3701.025	81624
Medically Handicapped Children's Medical Advisory Council	3701.025	81625
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	81626
Military Activation Task Force	5902.15	81627
Milk Sanitation Board	917.03	81628
Mine Subsidence Insurance Governing Board	3929.51	81629
Minority Development Financing Board	122.72	81630
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	81631
Multidisciplinary Council	3746.03	81632
Muskingum River Advisory Council	1501.25	81633
National Museum of Afro-American History and Culture Planning Committee	149.303	81634
Nursing Facility Reimbursement Study Council	5111.34	81635
Ohio Advisory Council for the Aging	173.03	81636
Ohio Aerospace & Defense Advisory Council	122.98	81637
Ohio Arts Council	3379.02	81638
Ohio Business Gateway Steering Committee	5703.57	81639
Ohio Cemetery Dispute Resolution Commission	4767.05	81640
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	81641

Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	81642
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	81643
Ohio Commission on Dispute Resolution and Conflict Management	179.02	81644
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	81645
Ohio Community Service Council	121.40	81646
Ohio Council for Interstate Adult Offender Supervision	5149.22	81647
Ohio Cultural Facilities Commission	3383.02	81648
Ohio Developmental Disabilities Council	5123.35	81649
Ohio Educational Telecommunications Network Commission	3353.02	81650
Ohio Ethics Commission	102.05	81651
Ohio Expositions Commission	991.02	81652
Ohio Family and Children First Cabinet Council	121.37	81653
Ohio Geology Advisory Council	1505.11	81654
Ohio Grape Industries Committee	924.51	81655
Ohio Hepatitis C Advisory Commission	3701.92	81656
Ohio Historic Site Preservation Advisory Board	149.301	81657
Ohio Historical Society Board of Trustees	149.30	81658
Ohio Judicial Conference	105.91	81659
Ohio Lake Erie Commission	1506.21	81660
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	81661
Ohio Medical Quality Foundation	3701.89	81662

Ohio Parks and Recreation Council	1541.40	81663
Ohio Peace Officer Training Commission	109.71	81664
Ohio Public Defender Commission	120.01	81665
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	81666
Ohio Public Works Commission	164.02	81667
Ohio Quarter Horse Development Commission	3769.086	81668
Ohio SchoolNet Commission	3301.80	81669
Ohio Small Government Capital Improvements Commission	164.02	81670
Ohio Soil and Water Conservation Commission	1515.02	81671
Ohio Standardbred Development Commission	3769.085	81672
Ohio Steel Industry Advisory Council	122.97	81673
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	81674
Ohio Thoroughbred Racing Advisory Committee	3769.084	81675
Ohio Tuition Trust Authority	3334.03	81676
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	81677
Ohio Vendors Representative Committee	3304.34	81678
Ohio War Orphans Scholarship Board	5910.02	81679
Ohio Water Advisory Council	1521.031	81680
Ohio Water Resources Council	1521.19	81681
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	81682
Oil and Gas Commission	1509.35	81683
Operating Committee, Agricultural Commodity Marketing Programs	924.07	81684
Organized Crime Investigations Commission	177.01	81685
Parole Board	5149.10	81686

Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	81687
Physician Loan Repayment Advisory Board	3702.81	81688
Power Siting Board	4906.02	81689
Prequalification Review Board	5525.07	81690
Private Water Systems Advisory Council	3701.346	81691
Public Employment Risk Reduction Advisory Commission	4167.02	81692
Public Health Council	3701.33	81693
Public Utilities Commission Nominating Council	4901.021	81694
Public Utility Property Tax Study Committee	5727.85	81695
Radiation Advisory Council	3748.20	81696
Reclamation Commission	1513.05	81697
Recreation and Resources Commission	1501.04	81698
Recycling and Litter Prevention Advisory Council	1502.04	81699
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	81700
Release Authority of Department of Youth Services	5139.50	81701
Savings & Loans Associations & Savings Banks Board	1181.16	81702
Schools and Ministerial Lands Divestiture Committee	501.041	81703
Second Chance Trust Fund Advisory Committee	2108.17	81704
Self-Insuring Employers Evaluation Board	4123.352	81705
Services Committee of the Workers' Compensation System	4121.06	81706
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	81707
Solid Waste Management Advisory Council	3734.51	81708
State Agency Coordinating Group	1521.19	81709
State Board of Deposit	135.02	81710
State Board of Emergency Medical Services	4765.04	81711
Subcommittees		
State Council of Uniform State Laws	105.21	81712

State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	81713
State Criminal Sentencing Commission	181.21	81714
State Employment Relations Board	4117.02	81715
State Fire Commission	3737.81	81716
State Racing Commission	3769.02	81717
State Victims Assistance Advisory Committee	109.91	81718
Student Tuition Recovery Authority	3332.081	81719
Tax Credit Authority	122.17	81720
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	81721
Technical Advisory Council on Oil and Gas	1509.38	81722
Transportation Review Advisory Council	5512.07	81723
Unemployment Compensation Review Commission	4141.06	81724
Unemployment Compensation Advisory Council	4141.08	81725
Utility Radiological Safety Board	4937.02	81726
Vehicle Management Commission	125.833	81727
Veterans Advisory Committee	5902.02(K)	81728
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	81729
Water and Sewer Commission	1525.11(C)	81730
Waterways Safety Council	1547.73	81731
Wildlife Council	1531.03	81732
Workers' Compensation System Oversight Commission	4121.12	81733
Workers' Compensation Oversight Commission	4121.123	81734
Nominating Committee		

Section 403.06. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly is hereby repealed. 81735
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Section 403.11. That Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 81737
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95 of the 125th General Assembly, be amended to read as follows: 81739

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 81740
901.83 of the Revised Code are hereby repealed, effective October 81741
15, ~~2005~~ 2007. 81742

Section 403.12. That existing Section 3 of Am. Sub. H.B. 621 81743
of the 122nd General Assembly, as most recently amended by Am. 81744
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 81745

Section 403.17. That Section 153 of Am. Sub. H.B. 117 of the 81746
121st General Assembly, as most recently amended by Am. Sub. H.B. 81747
95 of the 125th General Assembly, be amended to read as follows: 81748

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 81749
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 81750
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 81751
repealed, effective October 16, ~~2005~~ 2007. 81752

(B) Any money remaining in the Legislative Budget Services 81753
Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of 81754
the Revised Code is repealed by division (A) of this section, 81755
shall be used solely for the purposes stated in then former 81756
section 5112.19 of the Revised Code. When all money in the 81757
Legislative Budget Services Fund has been spent after then former 81758
section 5112.19 of the Revised Code is repealed under division (A) 81759
of this section, the fund shall cease to exist. 81760

Section 403.18. That existing Section 153 of Am. Sub. H.B. 81761
117 of the 121st General Assembly, as most recently amended by Am. 81762
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 81763

Section 403.23. That Section 5 of Am. Sub. S.B. 50 of the 81764
121st General Assembly, as most recently amended by Am. Sub. H.B. 81765

95 of the 125th General Assembly, be amended to read as follows: 81766

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 81767
General Assembly shall take effect July 1, ~~2005~~ 2007. 81768

Section 403.24. That existing Section 5 of Am. Sub. S.B. 50 81769
of the 121st General Assembly, as most recently amended by Am. 81770
Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 81771

Section 490.03. That Section 59.19 of Am. Sub. H.B. 95 of the 81772
125th General Assembly is hereby repealed. 81773

Section 490.06. That Section 147 of Am. Sub. H.B. 95 of the 81774
125th General Assembly is hereby repealed. 81775

Section 501.03. (A) There is hereby created the Task Force on 81776
Law Library Associations, consisting of thirteen members. The 81777
Speaker and Minority Leader of the House of Representatives shall 81778
each appoint one member of the House of Representatives to the 81779
Task Force. The President and Minority Leader of the Senate shall 81780
each appoint one member of the Senate to the Task Force. The Ohio 81781
Judicial Conference shall appoint three members to the Task Force, 81782
two of whom shall be judges who are members of the Conference and 81783
one of whom shall be a law librarian associated with a law library 81784
association. The County Commissioners Association of Ohio shall 81785
appoint three members to the Task Force, one of whom shall be a 81786
representative of the public. The Ohio State Bar Association shall 81787
appoint three members to the Task Force, two of whom shall be 81788
attorneys licensed to practice law in this state and one of whom 81789
shall be a law librarian associated with a law library 81790
association. Appointments to the Task Force shall be made by 81791
September 1, 2005. Vacancies on the Task Force shall be filled in 81792
the manner provided for original appointments. 81793

(B)(1) The Task Force shall do each of the following:	81794
(a) Gather information on and study the current state of the law library associations in this state covered by sections 3375.48 to 3375.56 of the Revised Code, with particular emphasis on the structure, funding, and administration of their law libraries, and on the effect of technology on, and access to, their law libraries;	81795 81796 81797 81798 81799 81800
(b) Make recommendations on the structure, funding, and administration of these law libraries presently and over the next five calendar years;	81801 81802 81803
(c) Make recommendations as to how to ensure that these law libraries remain open and may be made available to members of the public.	81804 81805 81806
(2) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Chief Justice of the Supreme Court by June 30, 2006. Upon submission of its report, the Task Force shall cease to exist.	81807 81808 81809 81810 81811
(C) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.	81812 81813
Section 503.01. (A) There is hereby created the Local Government Public Notice Task Force consisting of the following sixteen members:	81814 81815 81816
(1) Two members of the House of Representatives, one member appointed by the Speaker of the House of Representatives and one member appointed by the Minority Leader of the House of Representatives;	81817 81818 81819 81820
(2) Two members of the Senate, one member appointed by the President of the Senate and one member appointed by the Minority Leader of the Senate;	81821 81822 81823

(3) One member representing the Governor's office, appointed 81824
by the Governor; 81825

(4) One member from an organization representing municipal 81826
government, one member from an organization representing county 81827
government, and one member from an organization representing 81828
township government, appointed by the Speaker of the House of 81829
Representatives; 81830

(5) One member representing county recorders, one member 81831
representing prosecuting attorneys, one member representing county 81832
sheriffs, one member representing county coroners, one member 81833
representing county engineers, one member representing county 81834
auditors, one member representing county treasurers, and one 81835
member representing clerks of the courts of common pleas, 81836
appointed by the Speaker of the House of Representatives from 81837
groups that represent each of these county officials. 81838

(B) Appointments to the Task Force shall be made not later 81839
than thirty days after the effective date of this section. The 81840
member of the House of Representatives appointed by the Speaker of 81841
the House of Representatives shall be the chairperson of the Task 81842
Force, and the member of the Senate appointed by the President of 81843
the Senate shall serve as the vice-chairperson of the Task Force. 81844
The members of the Task Force shall serve without compensation, 81845
but may be reimbursed for their actual and necessary expenses 81846
incurred in performing the official duties and responsibilities of 81847
the Task Force. The Task Force shall meet as often as necessary to 81848
carry out its official duties and responsibilities. 81849

(C) The Task Force shall study the various public notice 81850
requirements in existence for local governments and determine if 81851
there are other ways to fulfill those requirements, such as by the 81852
use of media or technology other than those currently mandated. 81853
The Task Force shall determine if any changes would be more 81854

efficient or economical, considering what is practical. Not later than one year after the effective date of this section, the Task Force shall prepare and submit a report of its findings and recommendations on alternative ways to fulfill local government public notice requirements to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. On submission of that report, the Task Force shall cease to exist.

(D) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.

Section 503.03. As used in this section, "state agency" means the administrative departments identified in section 121.02 of the Revised Code and the bureau of workers' compensation.

During 2005, the Auditor of State shall examine the compliance of each state agency with the requirements of section 131.02 of the Revised Code. The examination shall inquire into the following matters:

(A) The practices and procedures used by the agency to collect claims before the claims are certified to the Attorney General as required by section 131.02 of the Revised Code;

(B) The number of individuals employed by the agency or engaged under contract with the agency in 2003 and 2004 whose only or whose primary duty is to collect amounts owed to the agency;

(C) For claims certified to the Attorney General under section 131.02 of the Revised Code in 2003 and 2004, the average number of days elapsing between the last day for timely payment of the claims and the day the agency certified the claim to the Attorney General.

For the purposes of the examination required by this section, the Auditor of State may request a state agency to provide reports

to the Auditor of State on the matters described under divisions 81885
(A), (B), and (C) of this section. State agencies shall provide 81886
such reports to the Auditor of State within 60 days after the 81887
request, but the Auditor of State may extend the time for 81888
providing the report for good cause for up to sixty days. 81889

Not later than March 31, 2006, the Auditor of State shall 81890
submit a written report of the Auditor of State's findings under 81891
this section to the Governor, the Speaker of the House of 81892
Representatives, the President of the Senate, and the Legislative 81893
Service Commission. 81894

Section 503.09. (A) There is hereby created the Correctional 81895
Faith-Based Initiatives Task Force consisting of the following 81896
fifteen members: 81897

(1) One member of the House of Representatives appointed by 81898
the Speaker of the House of Representatives; 81899

(2) One member of the House of Representatives appointed by 81900
the leader of the minority party of the House of Representatives; 81901

(3) One member of the Senate appointed by the President of 81902
the Senate; 81903

(4) One member of the Senate appointed by the Minority Leader 81904
of the Senate; 81905

(5) Two members appointed by the Governor; 81906

(6) The Director of Rehabilitation and Correction or the 81907
director's designee; 81908

(7) Three members appointed by the Director of Rehabilitation 81909
and Correction who have expertise or experience in faith-based 81910
programs in the correctional setting; 81911

(8) The Director of Job and Family Services or the director's 81912
designee; 81913

(9) The Director of Youth Services or the director's designee;	81914 81915
(10) The Director of Alcohol and Drug Addiction Services or the director's designee;	81916 81917
(11) The Director of Mental Health or the director's designee;	81918 81919
(12) One member appointed by the executive assistant in charge of the Governor's Office of Faith-Based and Community Initiatives.	81920 81921 81922
(B) The Director of Rehabilitation and Correction, or the director's designee, and the member of the House of Representatives appointed by the Speaker of the House of Representatives shall be co-chairs of the task force. The task force shall meet at least once each month. The Department of Rehabilitation and Correction shall provide the task force with a meeting room and secretarial assistance.	81923 81924 81925 81926 81927 81928 81929
(C) The task force shall study seamless faith-based solutions to problems in the correctional system, focusing on diversion programs, programs and services in the prison system and for families of incarcerated individuals, and the faith-based and nonprofit organizations that provide the programs and services. The task force shall examine existing faith-based programs in prisons in Ohio and other states and shall consider the feasibility of replicating programs from other states and developing model faith-based penal institutions, faith-based units within penal institutions, and faith-based programs to reduce recidivism of offenders after their release from prison, improve prison management, and deal with juveniles who have been held over to or are in the adult penal system or who have parents who are incarcerated.	81930 81931 81932 81933 81934 81935 81936 81937 81938 81939 81940 81941 81942 81943
(D) On or before the first anniversary of the effective date	81944

of this section, the task force shall provide a written report and
recommendations to the Governor, the Speaker of the House of
Representatives, and the President of the Senate. Upon submitting
the report and recommendations, the task force shall cease to
exist.

Section 503.12. (A) There is hereby created the Local
Government and Library Financing and Support Committee consisting
of the following eight members:

(1) Four members of the House of Representatives who are
members of the House Finance and Appropriations Committee, two
appointed by the Speaker of the House of Representatives and two
appointed by the Minority Leader of the House of Representatives;

(2) Four members of the Senate who are members of the Senate
Finance and Financial Institutions Committee, two appointed by the
President of the Senate and two appointed by the Minority Leader
of the Senate.

All appointments shall be made within thirty days after the
effective date of this section. Vacancies on the Committee shall
be filled in the same manner as the original appointments. The
Speaker shall designate one of the members of the Committee to
serve as chairperson.

(B) The Committee shall study potential sources of state
funding for the Local Government Fund, the Library and Local
Government Support Fund, and the Local Government Revenue
Assistance Fund that have the capacity to allow for growth in
funding levels and to provide stability in funding levels.

(C) The Committee may request staff assistance from the Tax
Commissioner and the Legislative Service Commission.

(D) Not later than June 1, 2006, the Committee shall submit a
report to the Governor and to the General Assembly setting forth

the Committee's recommendations for sources of funding for the 81975
funds specified in division (B) of this section, together with 81976
suggested legislation to implement the recommendations. The 81977
Committee may submit additional recommendations after June 1, 81978
2006, to the Governor and the General Assembly. 81979

(E) The Committee shall cease to exist on December 31, 2006. 81980

Section 506.03. (A) The Governor is hereby authorized to 81981
execute a deed in the name of the state conveying to 81982
Hocking.Athens.Perry Community Action and its successors and 81983
assigns all of the state's right, title, and interest in the 81984
following described real estate: 81985

Situate in the Village of Glouster, Trimble Township, Athens 81986
County, Ohio, and being a part of a tract as described in Volume 81987
384, Page 47 of the Deed Records of Athens County, and being more 81988
particularly described as follows: 81989

Beginning at an iron pin set at the northeast corner of Lot 81990
848 of the Wassall Fire Clay Company's Addition to the Village of 81991
Glouster; thence along the south line of a 10.00 foot alley South 81992
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 81993
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 81994
528.53 feet to an iron pin found; thence along the west line of a 81995
44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 81996
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 81997
a point on the east right of way line of the former Toledo and 81998
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 81999
thence along said line North 1° 39' 06" West, 734.24 feet to an 82000
iron pin found; thence along the south line of Lot 860 in said 82001
Village South 85° 54' 11" East, 188.77 feet to an iron pin set; 82002
thence along the east line of Lots 860 and 859 North 4° 05' 20" 82003
East, 100.00 feet to an iron pin set (an iron pin found for 82004
reference bears South 70° 30' 21" East, 1.01 feet); thence along 82005

the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 feet to an iron pin found; thence along the east line of Lot 848 North 4° 05' 30" East, 40.00 feet to the point of beginning and containing 14.046 acres. 82006
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Subject to all Easements and Rights of Way of Record. 82010

Bearings used are to an assumed meridian and are for angular determination only. 82011
82012

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS #S-7581. 82013
82014

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS: 82015

Tract 1-0.020 acre: Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as previously described in Volume 384, Page 47 of the Deed Records of Athens County and being more particularly described as follows: Commencing at an iron pin set at the southeast corner of Lot 860 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of said lot North 85° 54' 11" West, 88.77 feet to an iron pin set at the point of beginning of this tract; thence leaving said line and along a new line South 4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 10.00 feet); thence along a new line parallel to the south line of the previously mentioned lot line North 85° 54' 11" West, 60.00 feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet to an iron pin set on grantors most westerly north line (passing an iron pin set at 5.00 feet); thence along said line South 85° 54' 11" East, 60.00 feet to the point of beginning and containing 0.020 acre. Subject to all easements and rights of way of record. Bearings used are to an assumed meridian and are for angular determination only. Surveyed August 1997 by Kenneth E. Highland, Ohio PLS #S-7581. 82016
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Deed Reference: Volume 263, Page 540 and Volume 299, Page 185, 82036

Athens County Official Records. 82037

Tract 2-0.013 acre: Situate in the Village of Glouster, 82038
Trimble Township, Athens County, Ohio, and being a part of a tract 82039
as previously described in Volume 384, Page 47 of the Deed Records 82040
of Athens County and being more particularly described as follows: 82041
Commencing at an iron pin set at the southwest corner of Lot 857 82042
of the Wassall Fire Clay Company's Addition to the Village of 82043
Glouster; thence along the south line of said lot South 85° 54' 82044
29" East, 90.00 feet to an iron pin set at the point of beginning 82045
of this tract; thence continuing along said line South 85° 54' 29" 82046
East, 60.00 feet to an iron pin set at the southeast corner of 82047
said lot; thence along a new line South 4° 05' 31" West 10.00 feet 82048
to an iron pin set; thence along a line parallel to the south line 82049
of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; 82050
thence along a new line North 4° 05' 31" East, 10.00 feet to the 82051
point of beginning and containing 0.013 acre. Subject to all 82052
easements and rights of way of record. Bearings used are to an 82053
assumed meridian and are for angular determination only. Surveyed 82054
August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 82055
2000. 82056

Deed Reference:Volume 299, Page 704; Volume 263, Page 544; 82057
and Volume 299, Page 183, Athens County Official Records. 82058

DEED REFERENCE:VOLUME _____, PAGE _____; VOLUME 298, PAGE 82059
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 82060

(B) Consideration for the conveyance of the real estate 82061
described in division (A) of this section is the purchase price of 82062
one dollar. 82063

(C) Upon payment of the purchase price, the Auditor of State, 82064
with the assistance of the Attorney General, shall prepare a deed 82065
to the real estate described in division (A) of this section. The 82066
deed shall state the consideration. The deed shall be executed by 82067

the Governor in the name of the state, countersigned by the
Secretary of State, sealed with the Great Seal of the State,
presented in the Office of the Auditor of State for recording, and
delivered to Hocking.Athens.Perry Community Action.
Hocking.Athens.Perry Community Action shall present the deed for
recording in the Office of the Athens County Recorder.

(D) Hocking.Athens.Perry Community Action shall pay the costs
of the conveyance of the real estate described in division (A) of
this section.

(E) This section expires one year after its effective date.

Section 509.03. (A)(1) The Clerk of the Medina Municipal
Court shall be elected by the qualified electors of the territory
of the court in the manner that is provided for the election of
the judge of that court in section 1901.07 of the Revised Code at
the first general election that occurs not less than six months
after the effective date of this section.

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of
the Revised Code, the term of the Clerk of the Medina Municipal
Court elected under division (A)(1) of this section shall commence
on the first day of January following the clerk's election and
continue until the clerk's successor is elected and qualified. The
clerk's successor shall be elected pursuant to the schedule for
the election of the judge of that court in sections 1901.07 and
1901.08 of the Revised Code.

(B) The Clerk of the Medina Municipal Court shall continue in
office until the clerk elected pursuant to division (A) of this
section takes office. If the office of Clerk of the Medina
Municipal Court becomes vacant prior to the date that the clerk
elected pursuant to division (A) of this section takes office, the
judges of the court shall appoint a clerk to serve until the clerk

elected pursuant to division (A) of this section takes office. 82098

Section 553.01. (A) As used in this section: 82099

(1) "Qualifying delinquent taxes" means any tax levied under 82100
Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, 82101
including the taxes levied under sections 5733.41 and 5747.41 of 82102
the Revised Code and taxes required to be withheld under Chapters 82103
5747. and 5748. of the Revised Code, which were due and payable 82104
from any person as of May 1, 2005, were unreported or 82105
underreported, and remain unpaid. 82106

(2) "Qualifying delinquent personal property taxes" means a 82107
tax for which a return is filed under section 5711.02 of the 82108
Revised Code. (3) "Qualifying delinquent taxes" and "qualifying 82109
delinquent personal property taxes" do not include any tax for 82110
which a notice of assessment or audit has been issued, for which a 82111
bill has been issued, or for which an audit has been conducted or 82112
is currently being conducted. 82113

(B) The Tax Commissioner shall establish and administer a tax 82114
amnesty program with respect to qualifying delinquent taxes and 82115
qualifying delinquent personal property taxes. The program shall 82116
commence on November 1, 2005, and shall conclude on December 15, 82117
2005. The Tax Commissioner shall issue forms and instructions and 82118
take other actions necessary to implement the program. The Tax 82119
Commissioner shall publicize the program so as to maximize public 82120
awareness and participation in the program. 82121

(C)(1) During the program, if a person pays the full amount 82122
of qualifying delinquent taxes owed by that person and one-half of 82123
any interest that has accrued as a result of the person failing to 82124
pay those taxes in a timely fashion, the Tax Commissioner shall 82125
waive or abate all applicable penalties and one-half of any 82126
interest that accrued on the qualifying delinquent taxes. 82127

(2) During the program, if a person who owes qualifying delinquent personal property taxes files a return with the Tax Commissioner, in the form and manner prescribed by the Tax Commissioner, listing all taxable property that was required to be listed on the return required to be filed under section 5711.02 of the Revised Code, the Tax Commissioner shall issue a preliminary assessment certificate to the appropriate county auditor. Upon receiving a preliminary assessment certificate issued by the Tax Commissioner pursuant to this division, the county auditor shall compute the amount of qualifying delinquent personal property taxes owed by the person and shall add to that amount one-half of the interest prescribed under sections 5711.32 and 5719.041 of the Revised Code. The county treasurer shall collect the amount of tax and interest computed by the county auditor under this division by preparing and mailing a tax bill to the person as prescribed in section 5711.32 of the Revised Code. If the person pays the full amount of tax and interest thereon on or before the date shown on the tax bill all applicable penalties and one-half of any interest that accrued on the qualifying delinquent personal property taxes shall be waived.

(3) No payment required under division (G) of section 321.24 of the Revised Code shall be made with respect to any person who pays qualifying delinquent personal property taxes under division (C)(2) of this section.

(4) Notwithstanding any contrary provision of the Revised Code, the Tax Commissioner shall not furnish to the county auditor any information pertaining to the exemption from taxation under division (C)(3) of section 5709.01 of the Revised Code insofar as that information pertains to any person who pays qualifying delinquent personal property taxes under division (C)(2) of this section.

(D) The Tax Commissioner may require a person participating

in the program to file returns or reports, including amended 82160
returns and reports, in connection with the person's payment of 82161
qualifying delinquent taxes or qualifying delinquent personal 82162
property taxes. 82163

(E) A person who participates in the program and pays in full 82164
any outstanding qualifying delinquent tax or qualifying delinquent 82165
personal property tax and the interest payable on such tax in 82166
accordance with this section shall not be subject to any criminal 82167
prosecution or any civil action with respect to that tax, and no 82168
assessment shall thereafter be issued against that person with 82169
respect to that tax. 82170

(F) Taxes and interest collected under the program shall be 82171
credited to the General Revenue Fund, except that: 82172

(1) Qualifying delinquent personal property taxes and 82173
interest payable thereon shall be credited to the appropriate 82174
county undivided income tax fund, and the county auditor shall 82175
distribute the amount thereof among the various taxing districts 82176
in the county as if it had been levied, collected, and settled, as 82177
personal property taxes; 82178

(2) Qualifying delinquent taxes levied under section 82179
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 82180
distributed to the appropriate counties and transit authorities in 82181
accordance with section 5739.21 of the Revised Code during the 82182
next distribution required under that section; 82183

(3) Qualifying delinquent taxes levied under section 82184
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 82185
distributed to the appropriate counties and transit authorities in 82186
accordance with section 5741.03 of the Revised Code during the 82187
next distribution required under that section; and 82188

(4) Qualifying delinquent taxes levied under Chapter 5748. of 82189
the Revised Code shall be credited to the school district income 82190

tax fund and then paid to the appropriate school district during 82191
the next payment required under division (D) of section 5747.03 of 82192
the Revised Code. 82193

Section 553.02. Section 553.01 of this act is hereby 82194
repealed, effective December 16, 2005. The repeal of Section 82195
553.01 of this act does not affect, after the effective date of 82196
the repeal, the rights, remedies, or actions authorized under that 82197
section. 82198

Section 557.03. A credit is hereby allowed against the 82199
additional estate tax imposed by section 5731.18 of the Revised 82200
Code on the estate of a decedent who dies on or after January 1, 82201
2002, but before the effective date of that section as amended by 82202
this act. The credit shall equal that portion of the additional 82203
estate tax imposed by section 5731.18 of the Revised Code that is 82204
over and above the additional estate tax that would have been 82205
imposed if the tax levied by division (A) of that section had been 82206
an amount equal to the maximum credit allowable by section 2011 of 82207
the Internal Revenue Code that was in effect and applicable on the 82208
date of such decedent's death for any taxes paid to any state. 82209

Section 557.06. (A) As used in this section, "net additional 82210
tax" means, in the case of a wholesale dealer, the net additional 82211
amount of tax resulting from the amendment by this act of section 82212
5743.02 of the Revised Code, less the discount allowed under 82213
section 5743.05 of the Revised Code as a commission for affixing 82214
and canceling stamps or meter impressions, that is due on all 82215
packages of Ohio stamped cigarettes and on all unaffixed Ohio 82216
cigarette tax stamps that the wholesale dealer has on hand as of 82217
the beginning of business on July 1, 2005, and, in the case of a 82218
retail dealer, means the net additional amount of tax resulting 82219
from the amendment by this act of section 5743.02 of the Revised 82220

Code that is due on all packages of Ohio stamped cigarettes and on 82221
all unaffixed Ohio cigarette tax stamps that the retail dealer has 82222
on hand as of the beginning of business on July 1, 2005. 82223

(B) In addition to the return required under section 5743.03 82224
of the Revised Code, each wholesale dealer and each retail dealer 82225
shall make and file a return on forms prescribed by the tax 82226
commissioner showing the net additional tax due and any other 82227
information that the commissioner considers necessary to apply 82228
sections 5743.01 to 5743.20 of the Revised Code in the 82229
administration of the net additional tax. On or before September 82230
30, 2005, each wholesale dealer and each retail dealer shall 82231
deliver the return to the treasurer of state, together with 82232
remittance of the net additional tax shown on the return to be 82233
due. A wholesale dealer or retail dealer may claim a credit equal 82234
to five per cent of the net additional tax shown on the return to 82235
be due if the wholesale dealer or retail dealer delivers the 82236
return required under this section to the treasurer of state on or 82237
before August 15, 2005, together with remittance of the net 82238
additional tax due after allowing for the five per cent credit. 82239
The treasurer of state shall stamp or otherwise mark on the return 82240
the date on which the return and remittance were received by the 82241
treasurer of state and also shall show on the return by stamp or 82242
otherwise the amount of the tax payment remitted with the return. 82243
Upon receipt, the treasurer of state shall immediately transmit 82244
all returns filed under this section to the commissioner. 82245

(C) Any wholesale or retail dealer who fails to file a return 82246
or remit net additional tax as required under this section shall 82247
forfeit and pay into the state treasury a late charge equal to 82248
fifty dollars or ten per cent of the net additional tax due, 82249
whichever is greater. If the net additional tax, or any portion 82250
thereof, whether determined by the commissioner or the wholesale 82251
or retail dealer, is not paid on or before the date prescribed for 82252

payment under this section, interest shall accrue on the unpaid 82253
amount at the rate per annum required by section 5703.47 of the 82254
Revised Code from the date prescribed for payment of the net 82255
additional tax to the date of payment or to the date the 82256
commissioner issues an assessment under section 5743.081 or 82257
5743.082 of the Revised Code, whichever occurs first. Interest 82258
shall be paid and collected in the same manner as the net 82259
additional tax. 82260

(D) Unpaid or unreported net additional taxes, late charges, 82261
and interest may be collected by assessment in the manner 82262
prescribed under sections 5743.081 and 5743.082 of the Revised 82263
Code. 82264

(E) All amounts collected under this section shall be 82265
considered revenue arising from the tax imposed by section 5743.02 82266
of the Revised Code. 82267

Section 557.09. (A) The tax imposed under Chapter 5751. of 82268
the Revised Code, as enacted by this act, is an annual tax for the 82269
privilege of doing business in this state and is intended to 82270
replace the corporation franchise tax imposed under Chapter 5733. 82271
of the Revised Code for corporations other than corporations 82272
referred to in divisions (G)(1)(a) and (b) of section 5733.01 of 82273
the Revised Code. 82274

(B) The tax imposed under Chapter 5751. of the Revised Code, 82275
as enacted by this act, takes effect July 1, 2005. Notwithstanding 82276
division (L) of section 5751.01 and section 5751.02 of the Revised 82277
Code, the tax year in calendar year 2005 begins July 1, 2005, and 82278
ends December 31, 2005. The tax imposed under Chapter 5751. of the 82279
Revised Code for that tax year equals fifty dollars plus the 82280
product of six-tenths of one mill times taxable gross receipts in 82281
excess of five hundred thousand dollars. In lieu of quarterly tax 82282
reporting periods for that tax year, taxpayers shall report and 82283

pay the tax due for the tax year not later than February 15, 2006, 82284
and as otherwise required under Chapter 5751. of the Revised Code. 82285

(C) Only persons excluded pursuant to divisions (E)(2) to 82286
(11) of section 5751.01 of the Revised Code, as enacted by this 82287
act, and persons with less than forty thousand dollars in taxable 82288
gross receipts during calendar year 2005 are not subject to this 82289
section. 82290

(D) The tax commissioner shall take the necessary steps to 82291
implement this section and use money in the commercial tax 82292
administrative fund to promote awareness of the tax imposed under 82293
this section and under Chapter 5751. of the Revised Code as 82294
enacted by this act by means of advertising and other reasonable 82295
means. 82296

Section 557.10. In lieu of the certification and crediting of 82297
money to the Recycling and Litter Prevention Fund in fiscal year 82298
2006 that would be required under section 5733.122 of the Revised 82299
Code if that section were not repealed by this act, the Director 82300
of Budget and Management, during fiscal year 2006, shall transfer 82301
\$1,500,000 from the General Revenue Fund to the Recycling and 82302
Litter Prevention Fund according to a schedule to be determined by 82303
the Director. 82304

Section 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 82305

(A) On or before the seventh day of each month of the period 82306
July 2005 through June 2007, the Tax Commissioner shall determine 82307
and certify to the Director of Budget and Management the amount to 82308
be credited, by tax, during that month to the Local Government 82309
Fund, to the Library and Local Government Support Fund, and to the 82310
Local Government Revenue Assistance Fund, respectively, under 82311
divisions (B) to (G) of this section. 82312

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 82313

5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 82314
for each month in the period July 1, 2005, through June 30, 2007, 82315
from the utility excise, kilowatt-hour, corporation franchise, 82316
sales and use, and personal income taxes collected: 82317

(1) An amount shall first be credited to the Local Government 82318
Fund equal to the amount credited to that fund from that tax 82319
according to the schedule in divisions (C), (D), (E), and (F) of 82320
this section; 82321

(2) An amount shall next be credited to the Local Government 82322
Revenue Assistance Fund equal to the amount credited to that fund 82323
from that tax according to the schedule in divisions (C), (D), 82324
(E), and (F) of this section; 82325

(3) An amount shall next be credited to the Library and Local 82326
Government Support Fund equal to the amount credited to that fund 82327
from that tax according to the schedule in division (G) of this 82328
section; 82329

(4) In December 2005, an amount totaling \$5,000,000 shall be 82330
credited from the personal income tax to the Local Government 82331
Services Collaboration Grant Fund, established under section 82332
209.78.06 of this act. 82333

(C) Pursuant to divisions (B)(1) and (2) of this section, the 82334
amounts shall be credited from the corporation franchise, sales 82335
and use, and personal income taxes to each respective fund as 82336
follows: 82337

(1) In July 2005, one hundred per cent of the amount credited 82338
in July 2004; in July 2006, eighty per cent of the amount credited 82339
in July 2005; 82340

(2) In August 2005, one hundred per cent of the amount 82341
credited in August 2004; in August 2006, eighty per cent of the 82342
amount credited in August 2005; 82343

- (3) In September 2005, one hundred per cent of the amount 82344
credited in September 2004; in September 2006, eighty per cent of 82345
the amount credited in September 2005; 82346
- (4) In October 2005, one hundred per cent of the amount 82347
credited in October 2004; in October 2006, eighty per cent of the 82348
amount credited in October 2005; 82349
- (5) In November 2005, one hundred per cent of the amount 82350
credited in November 2004; in November 2006, eighty per cent of 82351
the amount credited in November 2005; 82352
- (6) In December 2005, eighty per cent of the amount credited 82353
in December 2004, except that the amount credited to the Local 82354
Government Fund from the personal income tax shall be reduced by 82355
an additional \$5,000,000 and this reduction shall be borne 82356
entirely by the countywide non-township and non-village 82357
distribution in January 2006; in December 2006, one hundred per 82358
cent of the amount credited in December 2005, before the 82359
\$5,000,000 reduction described in division (C)(6) of this section; 82360
- (7) In January 2006, eighty per cent of the amount credited 82361
in January 2005; in January 2007, one hundred per cent of the 82362
amount credited in January 2006; 82363
- (8) In February 2006, eighty per cent of the amount credited 82364
in February 2005; in February 2007, one hundred per cent of the 82365
amount credited in February 2006; 82366
- (9) In March 2006, eighty per cent of the amount credited in 82367
March 2005; in March 2007, one hundred per cent of the amount 82368
credited in March 2006; 82369
- (10) In April 2006, eighty per cent of the amount credited in 82370
April 2005; in April 2007, one hundred per cent of the amount 82371
credited in April 2006; 82372
- (11) In May 2006, eighty per cent of the amount credited in 82373

May 2005; in May 2007, one hundred per cent of the amount credited 82374
in May 2006; 82375

(12) In June 2006, eighty per cent of the amount credited in 82376
June 2005; in June 2007, one hundred per cent of the amount 82377
credited in June 2006. 82378

(D) Pursuant to divisions (B)(1) and (2) of this section, 82379
from the public utility excise tax, amounts shall be credited to 82380
the Local Government Fund and the Local Government Revenue 82381
Assistance Fund as follows: 82382

(1) In July 2005 and July 2006, no amount shall be credited 82383
to the Local Government Fund and no amount shall be credited to 82384
the Local Government Revenue Assistance Fund; 82385

(2) In August 2005 and August 2006, no amount shall be 82386
credited to the Local Government Fund or to the Local Government 82387
Revenue Assistance Fund; 82388

(3) In September 2005 and September 2006, no amount shall be 82389
credited to the Local Government Fund or to the Local Government 82390
Revenue Assistance Fund; 82391

(4) In October 2005, \$3,423,635.38 shall be credited to the 82392
Local Government Fund and \$489,090.77 shall be credited to the 82393
Local Government Revenue Assistance Fund; in October 2006, 82394
\$2,738,908.31 shall be credited to the Local Government Fund and 82395
\$391,272.61 shall be credited to the Local Government Revenue 82396
Assistance Fund; 82397

(5) In November 2005, \$454,893.03 shall be credited to the 82398
Local Government Fund and \$64,984.72 shall be credited to the 82399
Local Government Revenue Assistance Fund; in November 2006, 82400
\$363,914.43 shall be credited to the Local Government Fund and 82401
\$51,987.77 shall be credited to the Local Government Revenue 82402
Assistance Fund; 82403

(6) In December 2005 and December 2006, \$421,094.51 shall be 82404
credited to the Local Government Fund and \$60,156.37 shall be 82405
credited to the Local Government Revenue Assistance Fund; 82406

(7) In January 2006 and January 2007, no amount shall be 82407
credited to the Local Government Fund or to the Local Government 82408
Revenue Assistance Fund; 82409

(8) In February 2006 and February 2007, \$527,244.09 shall be 82410
credited to the Local Government Fund and \$75,320.57 shall be 82411
credited to the Local Government Revenue Assistance Fund; 82412

(9) In March 2006 and March 2007, \$2,735,265.59 shall be 82413
credited to the Local Government Fund and \$390,752.23 shall be 82414
credited to the Local Government Revenue Assistance Fund; 82415

(10) In April 2006 and April 2007, no amount shall be 82416
credited to the Local Government Fund or to the Local Government 82417
Revenue Assistance Fund; 82418

(11) In May 2006 and May 2007, \$1,148,649.94 shall be 82419
credited to the Local Government Fund and \$164,092.85 shall be 82420
credited to the Local Government Revenue Assistance Fund; 82421

(12) In June 2006 and June 2007, \$3,251,886.31 shall be 82422
credited to the Local Government Fund and \$464,555.19 shall be 82423
credited to the Local Government Revenue Assistance Fund. 82424

(E) Pursuant to divisions (B)(1) and (2) of this section, 82425
from the kilowatt-hour tax, amounts shall be credited to the Local 82426
Government Fund and the Local Government Revenue Assistance Fund 82427
as follows: 82428

(1) In July 2005 and July 2006, no amount shall be credited 82429
to the Local Government Fund and no amount shall be credited to 82430
the Local Government Revenue Assistance Fund; 82431

(2) In August 2005 and August 2006, no amount shall be 82432
credited to the Local Government Fund or to the Local Government 82433

Revenue Assistance Fund;	82434
(3) In September 2005, and September 2006, no amount shall be	82435
credited to the Local Government Fund or to the Local Government	82436
Revenue Assistance Fund;	82437
(4) In October 2005, \$4,446,790.78 shall be credited to the	82438
Local Government Fund and \$635,255.82 shall be credited to the	82439
Local Government Revenue Assistance Fund; in October 2006,	82440
\$3,557,432.62 shall be credited to the Local Government Fund and	82441
\$508,204.66 shall be credited to the Local Government Revenue	82442
Assistance Fund;	82443
(5) In November 2005, \$590,838.08 shall be credited to the	82444
Local Government Fund and \$84,405.43 shall be credited to the	82445
Local Government Revenue Assistance Fund; in November 2006,	82446
\$472,670.46 shall be credited to the Local Government Fund and	82447
\$67,524.35 shall be credited to the Local Government Revenue	82448
Assistance Fund;	82449
(6) In December 2005 and December 2006, \$546,938.83 shall be	82450
credited to the Local Government Fund and \$78,134.13 shall be	82451
credited to the Local Government Revenue Assistance Fund;	82452
(7) In January 2006 and January 2007, no amount shall be	82453
credited to the Local Government Fund or to the Local Government	82454
Revenue Assistance Fund;	82455
(8) In February 2006 and February 2007, \$684,811.29 shall be	82456
credited to the Local Government Fund and \$97,830.17 shall be	82457
credited to the Local Government Revenue Assistance Fund;	82458
(9) In March 2006 and March 2007, \$3,552,701.27 shall be	82459
credited to the Local Government Fund and \$507,528.76 shall be	82460
credited to the Local Government Revenue Assistance Fund;	82461
(10) In April 2006 and April 2007, no amount shall be	82462
credited to the Local Government Fund or to the Local Government	82463

Revenue Assistance Fund; 82464

(11) In May 2006 and May 2007, \$1,491,924.64 shall be 82465
credited to the Local Government Fund and \$213,132.09 shall be 82466
credited to the Local Government Revenue Assistance Fund; 82467

(12) In June 2006 and June 2007, \$4,223,714.40 shall be 82468
credited to the Local Government Fund and \$603,387.77 shall be 82469
credited to the Local Government Revenue Assistance Fund. 82470

(F) In addition to the amounts credited pursuant to divisions 82471
(C), (D), and (E) of this section, a supplemental amount shall be 82472
credited each month to the Local Government Fund and the Local 82473
Government Revenue Assistance Fund from the personal income tax. 82474
The supplemental amount shall equal any additional amount 82475
necessary to make the monthly distributions required by division 82476
(I) of this section to the extent such distributions exceed the 82477
amounts already credited pursuant to divisions (C), (D), and (E) 82478
of this section. 82479

(G) Pursuant to division (B)(3) of this section, amounts 82480
shall be credited from the personal income tax to the Library and 82481
Local Government Support Fund as follows: 82482

(1) In July 2005, one hundred per cent of the amount credited 82483
in July 2004; in July 2006, ninety-five per cent of the amount 82484
credited in July 2005; 82485

(2) In August 2005, one hundred per cent of the amount 82486
credited in August 2004; in August 2006, ninety-five per cent of 82487
the amount credited in August 2005; 82488

(3) In September 2005, one hundred per cent of the amount 82489
credited in September 2004; in September 2006, ninety-five per 82490
cent of the amount credited in September 2005; 82491

(4) In October 2005, one hundred per cent of the amount 82492
credited in October 2004; in October 2006, ninety-five per cent of 82493

the amount credited in October 2005;	82494
(5) In November 2005, one hundred per cent of the amount	82495
credited in November 2004; in November 2006, ninety-five per cent	82496
of the amount credited in November 2005;	82497
(6) In December 2005, ninety-five per cent of the amount	82498
credited in December 2004; in December 2006, one hundred per cent	82499
of the amount credited in December 2005;	82500
(7) In January 2006, ninety-five per cent of the amount	82501
credited in January 2005; in January 2007, one hundred per cent of	82502
the amount credited in January 2006;	82503
(8) In February 2006, ninety-five per cent of the amount	82504
credited in February 2005; in February 2007, one hundred per cent	82505
of the amount credited in February 2006;	82506
(9) In March 2006, ninety-five per cent of the amount	82507
credited in March 2005; in March 2007, one hundred per cent of the	82508
amount credited in March 2006;	82509
(10) In April 2006, ninety-five per cent of the amount	82510
credited in April 2005; in April 2007, one hundred per cent of the	82511
amount credited in April 2006;	82512
(11) In May 2006, ninety-five per cent of the amount credited	82513
in May 2005; in May 2007, one hundred per cent of the amount	82514
credited in May 2006;	82515
(12) In June 2006, ninety-five per cent of the amount	82516
credited in June 2005; in June 2007, one hundred per cent of the	82517
amount credited in June 2006.	82518
(H) The total amount credited to the Local Government Fund	82519
and the Local Government Revenue Assistance Fund in each month	82520
during the period July 2005 through November 2005 shall be	82521
distributed by the tenth day of the immediately succeeding month	82522
in the following manner, and the total amount credited to the	82523

Library and Local Government Support Fund in each month during the 82524
period July 2005 through June 2007 shall be distributed by the 82525
tenth day of the immediately succeeding month in the following 82526
manner: 82527

(1) Each county undivided local government fund shall receive 82528
a distribution from the Local Government Fund based on its 82529
proportionate share of the total amount received from the fund in 82530
such respective month for the period August 1, 2004, through 82531
December 31, 2004. 82532

(2) Each municipal corporation receiving a direct 82533
distribution from the Local Government Fund shall receive a 82534
distribution based on its proportionate share of the total amount 82535
received from the fund in such respective month for the period 82536
August 1, 2004, through December 31, 2004. 82537

(3) Each county undivided local government revenue assistance 82538
fund shall receive a distribution from the Local Government 82539
Revenue Assistance Fund based on its proportionate share of the 82540
total amount received from the fund in such respective month for 82541
the period August 1, 2004, through December 31, 2004. 82542

(4) Each county undivided library and local government 82543
support fund shall receive a distribution from the Library and 82544
Local Government Support Fund based on its proportionate share of 82545
the total amount received from the fund in such respective month 82546
for the period August 1, 2004, through July 31, 2005. 82547

(I) The total amount credited to the Local Government Fund 82548
and the Local Government Revenue Assistance Fund in each month 82549
during the period December 2005 through June 2007 shall be 82550
distributed by the tenth day of the immediately succeeding month 82551
in the following manner: 82552

(1) Each county undivided local government fund and each 82553
county undivided local government revenue assistance fund shall 82554

receive the "countywide township and village distribution" for 82555
each respective fund, as determined under divisions (I)(1)(a) and 82556
(b) of this section. 82557

(a) The countywide township and village distribution is 82558
determined as follows: For each county undivided local government 82559
fund and each county undivided local government revenue assistance 82560
fund, the Tax Commissioner shall identify the proportionate shares 82561
of the distributions made from each fund to townships and villages 82562
located partially or entirely in that county, as reported by the 82563
county auditor for calendar year 2005 under division (J) of 82564
section 5747.51 and division (I) of section 5747.62 of the Revised 82565
Code, respectively. For each county and each fund, the Tax 82566
Commissioner shall compute the sum of the proportionate shares of 82567
distributions to townships and villages, and shall next multiply 82568
the sum for each fund by the amount distributed each month to the 82569
county undivided local government fund from the local government 82570
fund and by the amount distributed each month to the county 82571
undivided local government revenue assistance fund from the local 82572
government revenue assistance fund, respectively, during the 82573
period January 2005 through December 2005. 82574

(b) The Tax Commissioner shall multiply each product derived 82575
in division (I)(1)(a) of this section by ninety per cent to yield 82576
that month's countywide township and village distribution for each 82577
fund and each county. 82578

(c) Only those subdivisions reported as townships and those 82579
municipal corporations reported as villages in the most recent 82580
edition of the Secretary of State's "Ohio Municipal, Township and 82581
School Board Roster," available as of November 1, 2005, shall be 82582
considered to be townships or villages, respectively, for purposes 82583
of this section. Townships and villages that are dissolved or that 82584
merge with another subdivision on or after August 1, 2005, may be 82585
excluded from the calculation of the countywide township and 82586

village distribution. 82587

(2) In addition to the distributions provided in divisions 82588
(I)(1) and (I)(5) of this section, each county undivided local 82589
government fund and each county undivided local government revenue 82590
assistance fund shall receive the "other taxing unit distribution" 82591
computed for each fund under divisions (I)(2)(a) and (b) of this 82592
section. 82593

(a) The monthly product calculated pursuant to division 82594
(I)(1)(a) of this section and the monthly distribution to a county 82595
determined under division (I)(5)(a) of this section for each 82596
county undivided local government fund shall be subtracted from 82597
the county undivided local government fund distribution made from 82598
the local government fund in such respective month during the 82599
period January 2005 through December 2005. The difference shall be 82600
multiplied by eighty per cent. 82601

(b) The monthly product calculated pursuant to division 82602
(I)(1)(a) of this section and the monthly distribution to a county 82603
determined under division (I)(5)(a) of this section for each 82604
county undivided local government revenue assistance fund shall be 82605
subtracted from the county undivided local government revenue 82606
assistance fund distribution made from the local government 82607
revenue assistance fund in such respective month during the period 82608
January 2005 through December 2005. The difference shall be 82609
multiplied by eighty per cent. 82610

(3) Each municipal corporation identified by the Tax 82611
Commissioner as a village under division (I)(1)(c) of this section 82612
shall receive in each month an amount directly from the Local 82613
Government Fund equal to ninety per cent of the amount the 82614
municipal corporation received directly from that fund in such 82615
respective month during the period January 1, 2005, through 82616
December 31, 2005. 82617

(4) Except for villages receiving amounts pursuant to 82618
division (I)(3) of this section, each municipal corporation shall 82619
receive in each month an amount directly from the Local Government 82620
Fund that is equal to eighty per cent of the amount the municipal 82621
corporation received directly from that fund in such respective 82622
month during the period January 1, 2005, through December 31, 82623
2005. 82624

(5) Each county undivided local government fund and each 82625
county undivided local government revenue assistance fund shall 82626
receive the "county distribution" for each respective fund, as 82627
determined under divisions (I)(5)(a) and (b) of this section. 82628

(a) The county distribution is determined as follows: For 82629
each county undivided local government fund and each county 82630
undivided local government revenue assistance fund, the Tax 82631
Commissioner shall identify the distribution made from each fund 82632
to the county as a subdivision, as reported by the county auditor 82633
for calendar year 2005 under division (J) of section 5747.51 and 82634
division (I) of section 5747.62 of the Revised Code, respectively. 82635
For each county and each fund, the Tax Commissioner shall 82636
determine the amount distributed each month to the county as a 82637
subdivision during the period January 2005 through December 2005. 82638

(b) Except as provided in division (I)(5)(c) of this section, 82639
the Tax Commissioner shall multiply the amount derived in division 82640
(I)(5)(a) of this section by eighty per cent to yield that month's 82641
county distribution for each fund and each county. 82642

(c) If a county auditor submits to the Auditor of State a 82643
report on or before October 1, 2005, that describes efforts on the 82644
part of the county to reduce costs by consolidating services and 82645
engaging in regional cooperation, specifies costs savings 82646
resulting from consolidation of services and regional cooperation, 82647
and describes the county's future plans with respect to 82648

consolidating services and engaging in regional cooperation as 82649
described in division (I)(5)(d) of this section, then for each 82650
month following the month in which such report is filed, the Tax 82651
Commissioner shall multiply the amount derived in division 82652
(I)(5)(a) of this section by ninety per cent to yield that month's 82653
county distribution for the county's funds. By October 15, 2005, 82654
the Auditor of State shall notify the Tax Commissioner of which 82655
counties have filed the report described in this division on or 82656
before October 1, 2005. 82657

(d) The report described in division (I)(5)(c) of this 82658
section shall describe a county's future plans with respect to 82659
consolidating services, including, but not limited to, 82660
consolidating fire, police, water, sewer, and solid waste services 82661
provided by the county. The report shall describe any efforts 82662
already undertaken by the county to analyze how these future 82663
consolidation efforts would impact costs and affect existing 82664
collective bargaining agreements. If no such analyses have been 82665
undertaken by the county at the time the report is filed, the 82666
report shall set forth a timeline for completing the analyses. 82667

The report also shall describe a county's future plans with 82668
respect to cooperating with one or more neighboring political 82669
subdivisions in the financing of operations that serve all of the 82670
subdivisions. The report shall describe a county's future plans, 82671
if any, to cooperate with other political subdivisions in the 82672
consolidation of purchasing or construction functions. 82673

(e) The report described in division (I)(5)(c) of this 82674
section shall be used by the Auditor of State for informational 82675
purposes only. The Auditor of State shall have no authority to 82676
approve or disapprove any plan described by a county in its 82677
report. 82678

(J) Notwithstanding the distribution method prescribed by 82679

divisions (C) to (I) of section 5747.51 or by section 5747.53 of
the Revised Code, during the period January 1, 2006, through July
31, 2007, the amounts allocated monthly to each county undivided
local government fund from the local government fund shall be
distributed among all subdivisions located wholly or partially in
the county in the manner prescribed by division (J) of this
section.

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(1) The countywide township and village distribution shall be
distributed among townships and villages based on their relative
proportionate shares of the sum of the township and village
proportionate shares described in division (I)(1)(a) of this
section.

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(2) The countywide non-township and non-village distribution
shall be distributed to subdivisions not otherwise included in
division (J)(1) of this section based on their relative
proportionate shares of the sum of proportionate shares for such
subdivisions based on the calendar year 2005 report submitted by
the county auditor to the Tax Commissioner pursuant to division
(J) of section 5747.51 of the Revised Code.

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(3) By December 20, 2005, the Tax Commissioner shall make the
following county undivided local government fund information
available to each county auditor: the countywide township and
village distribution for the county for each month during the
January 2006 through July 2007 period; a list of the county's
subdivisions that are considered to be villages and townships
under this section and their associated relative shares pursuant
to division (J)(1) of this section; the countywide non-township
and non-village distribution for the county for each month during
the January 2006 through July 2007 period; a list of the county's
subdivisions that are not considered to be villages or townships
under this section and their associated relative shares pursuant
to division (J)(2) of this section; and any other information

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deemed reasonable and appropriate for the purposes of making the 82712
distributions required by this section. 82713

(4) Until the county auditor provides the Tax Commissioner 82714
the report required by division (J) of section 5747.51 for 82715
calendar year 2005, the amounts distributed to the county 82716
undivided local government fund that are subsequently apportioned 82717
to subdivisions under this section shall be based on the most 82718
recent year for which a report has been submitted. If a county 82719
auditor report for a calendar year preceding calendar year 2005 is 82720
used to make the distributions under this section and the county 82721
auditor report for calendar year 2005 report is subsequently 82722
submitted to the Tax Commissioner, there shall be no adjustment 82723
for any month when such pre-calendar year 2005 report information 82724
was used. 82725

(5) Dealer in intangibles tax distributions are not affected 82726
by this section. 82727

(K) Notwithstanding the distribution method prescribed by 82728
divisions (C) to (H) of section 5747.62 or by section 5747.63 of 82729
the Revised Code, during the period January 1, 2006, through July 82730
31, 2007, the amounts allocated monthly to each county undivided 82731
local government revenue assistance fund from the local government 82732
revenue assistance fund shall be distributed among all 82733
subdivisions located wholly or partially in the county in the 82734
manner prescribed by division (K) of this section. 82735

(1) The countywide township and village distribution shall be 82736
distributed among townships and villages based on their relative 82737
proportionate shares of the sum of the township and village 82738
proportionate shares described in division (I)(1)(a) of this 82739
section. 82740

(2) The countywide non-township and non-village distribution 82741
shall be distributed to subdivisions not otherwise included in 82742

division (K)(1) of this section based on their relative 82743
proportionate shares of the sum of proportionate shares for such 82744
subdivisions based on the calendar year 2005 report submitted by 82745
the county auditor to the Tax Commissioner pursuant to division 82746
(I) of section 5747.62 of the Revised Code. 82747

(3) By December 20, 2005, the Tax Commissioner shall make the 82748
following county undivided local government revenue assistance 82749
fund information available to each county auditor: the countywide 82750
township and village distribution for the county for each month 82751
during the January 2006 through July 2007 period; a list of the 82752
county's subdivisions that are considered to be villages and 82753
townships under this section and their associated relative shares 82754
pursuant to division (K)(1) of this section; the other taxing unit 82755
distribution for the county for each month during the January 2006 82756
through July 2007 period; the county distribution for such county 82757
for each month and each fund during the January 2006 through July 82758
2007 period; a list of such county's subdivisions that are not 82759
considered to be villages and townships under this section and 82760
their associated relative shares pursuant to division (K)(2) of 82761
this section; and any other information deemed reasonable and 82762
appropriate for the purposes of making the distributions required 82763
by this section. 82764

(4) Until the county auditor provides the Tax Commissioner 82765
the report required by division (I) of section 5747.62 for 82766
calendar year 2005, the amounts distributed to the county 82767
undivided local government revenue assistance fund that are 82768
subsequently apportioned to subdivisions under this section shall 82769
be based on the most recent year for which a report has been 82770
submitted. If a county auditor report for a calendar year 82771
preceding calendar year 2005 is used to make the distributions 82772
under this section and the county auditor report for calendar year 82773
2005 report is subsequently submitted to the Tax Commissioner, 82774

there shall be no adjustment for any month when such pre-calendar
year 2005 report information was used.

(L) For the 2005, 2006, and 2007 distribution years, the Tax
Commissioner is not required to issue the certifications otherwise
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of
the Revised Code, but shall provide to each county auditor by the
twentieth day of July 2005, July 2006, and July 2007 an estimate
of the amounts to be received by the county in the ensuing year
from the Local Government Fund, Local Government Revenue
Assistance Fund, and Library and Local Government Support Fund
pursuant to this section and any pertinent section of the Revised
Code. For the 2006 distribution year, the Tax Commissioner shall
provide by December 20, 2005, a revised estimate of the amounts to
be received by the county in the ensuing year from the Local
Government Fund, Local Government Revenue Assistance Fund, and
Library and Local Government Support Fund pursuant to this section
and any pertinent section of the Revised Code. At the discretion
of the Tax Commissioner, the Tax Commissioner may report to each
county auditor additional revised estimates of the 2005, 2006, or
2007 distributions at any time during the period July 1, 2005,
through July 31, 2007.

(M) During the period July 1, 2005, through July 31, 2007,
the Director of Budget and Management shall issue such directives
to state agencies that are necessary to ensure that the
appropriate amounts are distributed to the Local Government Fund,
to the Local Government Revenue Assistance Fund, and to the
Library and Local Government Support Fund.

Section 557.13. (A) It is the intent of the General Assembly
that section 5751.02 of the Revised Code, as enacted by this act,
be applied in a manner that is consistent with and identical to
the situsing provisions that apply to the corporation franchise

tax. 82806

(B) Section 5751.02 of the Revised Code, as enacted by this 82807
act and relating to the situsing of gross receipts, shall be 82808
interpreted and applied by the Tax Commissioner in a manner that 82809
is consistent with the body of case law addressing the situsing of 82810
sales for purposes of the sales factor as determined under Chapter 82811
5733. of the Revised Code, and in a manner that is consistent with 82812
the Tax Commissioner's prior treatment of the corporation 82813
franchise tax sales factor situsing law for taxpayers under that 82814
chapter. 82815

(C) For purposes of section 5751.02 of the Revised Code, as 82816
enacted by this act, tangible personal property that is delivered 82817
into a foreign trade zone located in Ohio to a person within such 82818
foreign trade zone, solely for purposes of further delivery out of 82819
this state and without regard to the passage of title and to 82820
repackaging for further shipping purposes, shall be sitused to the 82821
location at which the person or person's affiliated customer 82822
completes the delivery of the property to locations outside of 82823
Ohio. For purpose of this section, "person's affiliated customer" 82824
means any person that is a member of the consolidated elected 82825
taxpayer of which the person that initially received such property 82826
in the foreign trade zone is also a member. 82827

Section 557.14. (A) The amendment by this act to section 82828
5709.07 of the Revised Code is intended to clarify the exemption 82829
in division (A)(4) of that section, and applies to all 82830
applications pending, as of July 1, 2005, for exemption under that 82831
division, and to all future applications for exemption under that 82832
division filed on or after that date. 82833

(B) Notwithstanding the possibility that buildings and lands 82834
may qualify for a real property tax exemption under another 82835

section of the Revised Code specifically applicable to such 82836
buildings and lands, buildings and lands that are described in 82837
divisions (A)(4)(a) to (c) of section 5709.07 of the Revised Code, 82838
as amended by this act, are nonetheless entitled to the exemption 82839
under division (A)(4) of that section, as amended by this act. 82840

Section 557.15. The amendment by this act of sections 319.302 82841
and 323.152 of the Revised Code first applies in tax year 2005. 82842

Section 557.18. Section 319.54 of the Revised Code, as 82843
amended by this act, applies to any conveyance of real property 82844
presented to the county auditor on or after July 1, 2005, 82845
regardless of its time of execution or delivery. 82846

Section 557.21. The amendment by this act of section 5727.81 82847
of the Revised Code first applies to the measurement period that 82848
includes July 1, 2005. 82849

Section 557.24. The amendment by this act of sections 82850
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 82851
Revised Code, and the repeal by this act of section 5731.20 of the 82852
Revised Code, applies to estates of decedents dying on or after 82853
the effective date of those sections as amended by this act. 82854

Section 557.27. The amendment by this act of section 5733.40 82855
of the Revised Code applies to taxable years ending on or after 82856
the effective date of this act. 82857

Section 557.30. Except as otherwise provided in division 82858
(A)(18) of section 5747.01 and division (A) of section 5747.02 of 82859
the Revised Code, the amendment by this act of sections 5747.01 82860
and 5747.02 of the Revised Code applies to taxable years ending on 82861
or after the effective date of this section. 82862

Section 557.33. The amendment by this act of section 5747.05 82863
of the Revised Code applies to taxable years ending on or after 82864
the effective date of this section. 82865

Section 560.03. There is hereby created the Ohio Military 82866
Reserve Homeland Security Study Commission to evaluate the role 82867
and effectiveness of the Ohio Military Reserve. The Commission 82868
shall consist of seven members: the Chairperson of the House 82869
Commerce and Labor Committee, who shall serve as chairperson of 82870
the Commission, two members of the House of Representatives whom 82871
the Speaker of the House of Representatives shall appoint, two 82872
members of the Senate whom the President of the Senate shall 82873
appoint, the Adjutant General or a representative the Adjutant 82874
General designates, and the Director of Public Safety or a 82875
representative the Director designates. The chairperson shall call 82876
the meetings of the Commission. The Commission shall report its 82877
findings to the General Assembly before January 1, 2006. 82878

Section 563.03. It is the intention of the General Assembly 82879
that the amendments made by this act to sections 3319.081 and 82880
3319.17 of the Revised Code, and the enactment by this act of 82881
section 3319.172 of the Revised Code, shall apply to existing 82882
collective bargaining agreements between public employers and 82883
public employees notwithstanding any other provision of law, such 82884
amendments and enactment being essential and necessary for the 82885
public welfare by enabling sound fiscal management practices in 82886
the operation of the public schools and public school programs. 82887

Section 566.03. As used in this section, "municipal public 82888
safety director" has the same meaning as in section 145.01 of the 82889
Revised Code, as amended by this act. 82890

Not later than ninety days after the effective date of this 82891

section, each municipal public safety director who is a member of 82892
the Public Employees Retirement System shall indicate to the 82893
retirement system, on a form supplied by the retirement system, a 82894
choice of whether to receive benefits under division (A) of 82895
section 145.33 of the Revised Code or under division (B) of that 82896
section. 82897

Section 606.03. If any item of law that constitutes the whole 82898
or part of a codified or uncodified section of law contained in 82899
this act, or if any application of any item of law that 82900
constitutes the whole or part of a codified or uncodified section 82901
of law contained in this act, is held invalid, the invalidity does 82902
not affect other items of law or applications of items of law that 82903
can be given effect without the invalid item of law or 82904
application. To this end, the items of law of which the codified 82905
and uncodified sections contained in this act are composed, and 82906
their applications, are independent and severable. 82907

Section 609.03. An item of law, other than an amending, 82908
enacting, or repealing clause, that composes the whole or part of 82909
an uncodified section contained in this act has no effect after 82910
June 30, 2007, unless its context clearly indicates otherwise. 82911

Section 612.03. Except as otherwise specifically provided in 82912
this act, the codified sections of law amended or enacted in this 82913
act, and the items of law of which the codified sections of law 82914
amended or enacted in this act are composed, are subject to the 82915
referendum. Therefore, under Ohio Constitution, Article II, 82916
Section 1c and section 1.471 of the Revised Code, the codified 82917
sections of law amended or enacted by this act, and the items of 82918
law of which the codified sections of law as amended or enacted by 82919
this act are composed, take effect on the ninety-first day after 82920
this act is filed with the Secretary of State. If, however, a 82921

referendum petition is filed against any such codified section of 82922
law as amended or enacted by this act, or against any item of law 82923
of which any such codified section of law as amended or enacted by 82924
this act is composed, the codified section of law as amended or 82925
enacted, or item of law, unless rejected at the referendum, takes 82926
effect at the earliest time permitted by law. 82927

Section 612.06. Except as otherwise specifically provided in 82928
this act, the repeal by this act of a codified section of law is 82929
subject to the referendum. Therefore, under Ohio Constitution, 82930
Article II, Section 1c and section 1.471 of the Revised Code, the 82931
repeal by this act of a codified section of law takes effect on 82932
the ninety-first day after this act is filed with the Secretary of 82933
State. If, however, a referendum petition is filed against any 82934
such repeal, the repeal, unless rejected at the referendum, takes 82935
effect at the earliest time permitted by law. 82936

Section 612.09. The sections of law amended, enacted, or 82937
repealed by this act that are listed in this section are subject 82938
to the referendum. Therefore, under Ohio Constitution, Article II, 82939
Section 1c and section 1.471 of the Revised Code, the sections, 82940
and the items of law of which they are composed, take effect as 82941
specified in this section. If, however, a referendum petition is 82942
filed against any such section as amended, enacted, or repealed, 82943
or against any item of law of which any such section as amended or 82944
enacted is composed, the section as amended, enacted, or repealed 82945
goes into effect at the earliest time permitted by law that is on 82946
or after the effective date specified in this section. 82947

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 82948
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 82949
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3317.10, 82950
3702.74, 4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 82951

5101.241, 5101.26, 5101.31, 5101.36, 5104.38, 5107.26, 5110.01, 82952
5110.05, 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 82953
(5111.0114), 5111.025, 5111.062, 5111.10, 5111.85, 5111.851, 82954
5111.852, 5111.853, 5111.854, 5111.855, 5111.89, 5111.891, 82955
5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 82956
5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 82957
5115.22, 5115.23, and 5119.61 of the Revised Code take effect 82958
October 1, 2005. 82959

Sections 5101.803, 5107.05, 5107.30, and 5107.301 of the 82960
Revised Code take effect January 1, 2006. 82961

Sections 3301.0710, 3301.0711, and 3301.0714 of the Revised 82962
Code take effect July 1, 2006. 82963

Section 612.12. Sections 108.05, 109.57, 109.572, 109.91, 82964
120.36, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 82965
123.17, 125.05, 125.831, 125.832, 126.25, 131.02, 131.022, 133.09, 82966
141.011, 141.04, 147.05, 147.10, 147.11, 147.12, 147.371, 181.251 82967
(5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 82968
181.55 (5502.65), 181.56 (5502.66), 183.28, 339.72, 339.88, 82969
742.59, 901.43, 901.44, 905.32, 905.33, 905.331, 905.36, 905.37, 82970
905.38, 905.381, 905.50, 905.66, 907.16, 911.02, 913.02, 913.23, 82971
915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 82972
927.69, 1327.511, 1327.62, 1327.70, 1327.71, 1327.99, 1502.02, 82973
1515.14, 1541.03, 1713.03, 2113.041, 2151.416, 2152.74, 2901.07, 82974
2923.25, 3107.10, 3125.191, 3301.311, 3301.32, 3301.86, 3301.88, 82975
3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 82976
3310.08, 3310.09, 3310.10, 3310.11, 3310.12, 3310.13, 3310.14, 82977
3310.15, 3310.16, 3310.17, 3313.975, 3313.976, 3313.977, 3313.978, 82978
3313.98, 3314.013, 3314.021, 3314.06, 3314.061, 3314.074, 3314.08, 82979
3314.13, 3316.043, 3317.01, 3317.012, 3317.013, 3317.02, 3317.021, 82980
3317.022, 3317.023, 3317.026, 3317.027, 3317.028, 3317.0212, 82981
3317.0216, 3317.0217, 3317.03, 3317.034, 3317.035, 3317.05, 82982

3317.052, 3317.053, 3317.06, 3317.081, 3317.16, 3317.20, 3317.201, 82983
3317.21 (3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 3317.50, 82984
3317.51, 3318.011, 3318.33, 3319.22, 3319.235, 3323.091, 3323.14, 82985
3323.16, 3325.11, 3325.12, 3325.16, 3325.17, 3333.36, 3353.01, 82986
3353.06, 3353.07, 3365.01, 3365.02, 3365.021, 3365.04, 3365.07, 82987
3365.10, 3365.11, 3701.146, 3702.141, 3702.68, 3702.83, 3709.29, 82988
3709.34, 3712.03, 3714.073, 3715.04, 3721.03, 3721.032, 3721.07, 82989
3721.15, 3721.21, 3721.541, 3734.57, 3734.901, 3734.9010, 3743.57, 82990
3745.015, 3745.11, 3745.114, 3748.07, 3748.13, 3770.061, 3793.09, 82991
3901.021, 3901.17, 3905.36, 4112.12, 4511.75, 4519.02, 4519.09, 82992
4736.12, 4905.10, 4911.18, 4973.171, 5101.07, 5101.071, 5101.21, 82993
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(5111.113), 5111.113 (5111.114), 5111.16, 5111.176, 5111.177, 82996
5111.19, 5111.191, 5111.98, 5112.30, 5112.341, 5120.09, 5120.51, 82997
5139.01, 5502.01, 5540.01, 5540.032, 5540.09, 5709.40, 5709.41, 82998
5709.73, 5709.77, 5709.78, 5731.39, and 6109.21 of the Revised 82999
Code as amended or enacted by this act, and the items of law of 83000
which such sections as amended or enacted by this act are 83001
composed, are not subject to the referendum. Therefore, under Ohio 83002
Constitution, Article II, Section 1d and section 1.471 of the 83003
Revised Code, such sections as amended or enacted by this act, and 83004
the items of law of which such sections as amended or enacted by 83005
this act are composed, go into immediate effect when this act 83006
becomes law. 83007

Section 612.12.03. New sections 5111.02 and 5111.112 of the 83008
Revised Code as enacted by this act, and the items of law of which 83009
such sections as enacted by this act are composed, are not subject 83010
to the referendum. Therefore, under Ohio Constitution, Article II, 83011
Section 1d and section 1.471 of the Revised Code, such sections as 83012
enacted by this act, and the items of law of which such sections 83013

as enacted by this act are composed, go into immediate effect when 83014
this act becomes law. 83015

Section 612.15. The repeal by this act of sections 181.53, 83016
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 83017
3301.37, 3301.38, 3301.80, 3301.85, 3301.87, 3317.0213, 3353.02, 83018
3353.03, and 3353.04 of the Revised Code is not subject to the 83019
referendum. Therefore, under Ohio Constitution, Article II, 83020
Section 1d and section 1.471 of the Revised Code, the repeals go 83021
into immediate effect when this act becomes law. 83022

Section 612.18. The sections of law amended, enacted, or 83023
repealed by this act that are listed in this section are not 83024
subject to the referendum. Therefore, under Ohio Constitution, 83025
Article II, Section 1d and section 1.471 of the Revised Code, the 83026
sections as amended, enacted, or repealed, and the items of law of 83027
which as amended or enacted they are composed, go into effect as 83028
specified in this section. 83029

Sections 140.01, 3323.021, 3721.01, 3721.50, 3721.51, 83030
3721.511, 3721.52, 3721.541, 3721.56, 3721.561, 3721.58, 3722.01, 83031
3722.02, 4117.24, 5111.041, 5111.042, 5111.20, 5111.21, 5111.22, 83032
5111.221, 5111.222, 5111.23, 5111.231 (5111.232), 5111.234, 83033
5111.235, 5111.24, 5111.241, 5111.242, 5111.25, 5111.251, 83034
5111.254, 5111.255, 5111.256, 5111.257 (5111.258), 5111.26, 83035
5111.261, 5111.262, 5111.263, 5111.264, 5111.265, 5111.266, 83036
5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 83037
5111.33, 5111.34, 5112.31, 5123.01, 5123.041, 5123.046, 5123.047, 83038
5123.048, 5123.049, 5123.0412, 5123.34, 5123.71, 5123.76, 5126.01, 83039
5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 83040
5126.12, 5705.091, 5709.40, 5709.73, and 5709.78 of the Revised 83041
Code take effect July 1, 2005. 83042

New sections 5111.231, 5111.257, and 5111.262 of the Revised 83043

Code take effect July 1, 2005.	83044
Section 3317.029 of the Revised Code takes effect July 1, 2006.	83045 83046
Section 612.19. New sections 5111.231, 5111.29, and 5111.31 of the Revised Code, as enacted by this act, and the items of law of which such sections as enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as enacted by this act, and the items of law of which such sections as enacted by this act are composed, take effect July 1, 2005.	83047 83048 83049 83050 83051 83052 83053 83054
Section 612.20. Sections 5111.221 and 5111.251 of the Revised Code, as repealed and reenacted by this act, and the items of law of which such sections as repealed and reenacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as repealed and reenacted by this act, and the items of law of which such sections as repealed and reenacted by this act are composed, take effect July 1, 2005.	83055 83056 83057 83058 83059 83060 83061 83062
Section 612.21. The amendment or enactment by this act of sections 122.17, 122.171, 131.46, 140.08, 150.07, 150.10, 319.302, 319.54, 323.152, 325.31, 1548.06, 2921.13, 4505.06, 5701.03, 5703.052, 5703.053, 5703.057, 5703.47, 5703.50, 5703.70, 5707.031, 5711.21, 5711.22, 5715.24, 5719.041, 5725.19, 5727.01, 5727.02, 5727.031, 5727.06, 5727.10, 5727.11, 5727.111, 5727.12, 5727.241, 5727.81, 5727.82, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 5731.41, 5733.01, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5739.01, 5739.02, 5739.025, 5739.10, 5741.02, 5743.01, 5743.021, 5743.03, 5743.031, 5743.05,	83063 83064 83065 83066 83067 83068 83069 83070 83071 83072 83073

5743.071, 5743.072, 5743.08, 5743.14, 5743.15, 5743.16, 5743.18, 83074
5743.19, 5743.20, 5743.71, 5743.72, 5743.73, 5743.74, 5743.75, 83075
5743.76, 5747.02, 5747.05, 5747.056, 5747.08, 5747.331, 5747.80, 83076
5747.98, 5751.01, 5751.011, 5751.012, 5751.02, 5751.021, 5751.03, 83077
5751.031, 5751.032, 5751.033, 5751.034, 5751.04, 5751.05, 5751.06, 83078
5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 83079
5751.20, 5751.21, 5751.22, 5751.31, 5751.50, 5751.51, 5751.52, 83080
5751.98, and 5751.99 of the Revised Code provides for or is 83081
essential to implementation of a tax levy. Therefore, under Ohio 83082
Constitution, Article II, Section 1d, the amendments and 83083
enactments, and the items of which they are composed, are not 83084
subject to the referendum and go into immediate effect when this 83085
act becomes law. 83086

Section 612.24. The repeal by this act of section 5731.20 of 83087
the Revised Code provides for or is essential to implementation of 83088
a tax levy. Therefore, under Ohio Constitution, Article II, 83089
Section 1d, the repeal is not subject to the referendum and goes 83090
into immediate effect when this act becomes law. 83091

Section 612.27. The amendment, enactment, or repeal by this 83092
act of the sections of law that are listed in this section 83093
provides for or is essential to implementation of a tax levy. 83094
Therefore, under Ohio Constitution, Article II, Section 1d, the 83095
amendments, enactments, and repeals, and the items of which any 83096
such amendment or enactment is composed, are not subject to the 83097
referendum and go into effect as specified in this section. 83098

Sections 4301.42, 4301.43, 4305.01, 5703.80, 5709.07, 83099
5733.065, 5733.066, 5733.122, 5743.02, 5743.32, 5743.33, 5743.51, 83100
5743.62, and 5743.63 of the Revised Code take effect July 1, 2005. 83101

Section 612.30. (A) Except as otherwise provided in division 83102

(B) of this section, the amendments by this act to section 127.16 83103
of the Revised Code are not subject to the referendum. Therefore, 83104
under Ohio Constitution, Article II, Section 1d and section 1.471 83105
of the Revised Code, the amendments take effect July 1, 2005. 83106

(B) The amendment to division (D)(2) of section 127.16 of the 83107
Revised Code is subject to the referendum. Therefore, under Ohio 83108
Constitution, Article II, Section 1c and section 1.471 of the 83109
Revised Code, the amendment takes effect October 1, 2005. If, 83110
however, a referendum petition is filed against the amendment, the 83111
amendment, unless rejected at the referendum, takes effect at the 83112
earliest time permitted by law that is on or after the effective 83113
date specified in this division. 83114

Section 612.33. (A) Except as otherwise provided in division 83115
(B) of this section, the amendments by this act to section 321.24 83116
of the Revised Code provides for or is essential to implementation 83117
of a tax levy. Therefore, under Ohio Constitution, Article II, 83118
Section 1d, the amendments are not subject to the referendum and 83119
go into immediate effect when this act becomes law. 83120

(B) The amendment to division (F) of section 321.24 of the 83121
Revised Code provides for or is essential to implementation of a 83122
tax levy. Therefore, under Ohio Constitution, Article II, Section 83123
1d, the amendment takes effect July 1, 2005. 83124

Section 612.36. (A) Except as otherwise provided in division 83125
(B) of this section, the amendments by this act to section 329.04 83126
of the Revised Code are not subject to the referendum. Therefore, 83127
under Ohio Constitution, Article II, Section 1d and section 1.471 83128
of the Revised Code, the amendments go into immediate effect. 83129

(B) The amendments to divisions (A)(3) to (9) of section 83130
329.04 of the Revised Code are subject to the referendum. 83131
Therefore, under Ohio Constitution, Article II, Section 1c and 83132

section 1.471 of the Revised Code, the amendments take effect 83133
October 1, 2005. If, however, a referendum petition is filed 83134
against the amendments, the amendments, unless rejected at the 83135
referendum, take effect at the earliest time permitted by law that 83136
is on or after the effective date specified in this division. 83137

Section 612.37. (A) Except as otherwise provided in division 83138
(B) of this section, the amendments to section 3314.02 of the 83139
Revised Code are subject to the referendum. Therefore, under Ohio 83140
Constitution, Article II, Section 1c and section 1.471 of the 83141
Revised Code, the amendments go into effect on the ninety-first 83142
day after this act is filed with the Secretary of State. If, 83143
however, a referendum petition is filed against the amendments, 83144
the amendments, unless rejected at the referendum, take effect at 83145
the earliest time permitted by law. 83146

(B) The amendment striking the paragraph immediately 83147
following division (C)(1)(f)(iii) of section 3314.02 of the 83148
Revised Code is not subject to the referendum. Therefore, under 83149
Ohio Constitution, Article II, Section 1d and section 1.471 of the 83150
Revised Code, the amendment goes into immediate effect when this 83151
act becomes law. 83152

Section 612.38. (A) Except as otherwise provided in division 83153
(B) of this section, the amendments by this act to section 3314.03 83154
of the Revised Code are not subject to the referendum. Therefore, 83155
under Ohio Constitution, Article II, Section 1d and section 1.471 83156
of the Revised Code, the amendments go into immediate effect. 83157

(B) The amendments adding divisions (A)(25) and (F) to 83158
section 3314.03 of the Revised Code are subject to the referendum. 83159
Therefore, under Ohio Constitution, Article II, Section 1c and 83160
section 1.471 of the Revised Code, the amendments take effect on 83161
the ninety-first day after this act is filed with the Secretary of 83162

State. If, however, a referendum petition is filed against the
amendments, the amendments, unless rejected at the referendum,
take effect at the earliest time permitted by law.

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Section 612.39. (A) Except as otherwise provided in division
(B) of this section, the amendments by this act to section
3317.024 of the Revised Code are not subject to the referendum.
Therefore, under Ohio Constitution, Article II, Section 1d and
section 1.471 of the Revised Code, the amendments go into
immediate effect.

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(B) The amendment to division (J) of section 3317.024 of the
Revised Code is subject to the referendum. Therefore, under Ohio
Constitution, Article II, Section 1c and section 1.471 of the
Revised Code, the amendment takes effect on the ninety-first day
after this act is filed with the Secretary of State. If, however,
a referendum petition is filed against the amendment, the
amendment, unless rejected at the referendum, takes effect at the
earliest time permitted by law.

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Section 612.45. (A) Except as otherwise provided in division
(B) of this section, the amendments by this act to section 3702.51
of the Revised Code are not subject to the referendum. Therefore,
under Ohio Constitution, Article II, Section 1d and section 1.471
of the Revised Code, the amendments go into immediate effect.

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(B) The amendment to division (G)(10) of section 3702.51 of
the Revised Code is not subject to the referendum. Therefore,
under Ohio Constitution, Article II, Section 1d and section 1.471
of the Revised Code, the amendments take effect July 1, 2005.

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Section 612.51. (A) The amendment or enactment by Section 1
of this act of sections 2151.86, 3125.18, 5101.35, 5101.80,
5101.801, 5101.802, and 5153.16 of the Revised Code is not subject

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to the referendum. Therefore, under Ohio Constitution, Article II, 83192
Section 1d and section 1.471 of the Revised Code, the amendments 83193
and enactments go into immediate effect when this act becomes law. 83194

(B) The amendment by Section 120.07 of this act of sections 83195
3125.18, 5101.35, 5101.80, 5101.801, and 5153.16 of the Revised 83196
Code is subject to the referendum. Therefore, under Ohio 83197
Constitution, Article II, Section 1c and section 1.471 of the 83198
Revised Code, the amendments take effect January 1, 2006. If, 83199
however, a referendum petition is filed against the amendments, 83200
the amendments, unless rejected at the referendum, take effect at 83201
the earliest time permitted by law that is on or after the 83202
effective date specified in this division. 83203

Section 612.54. (A) Except as otherwise provided in division 83204
(B) of this section, the amendments to section 5111.02 (5111.021) 83205
of the Revised Code are subject to the referendum. Therefore, 83206
under Ohio Constitution, Article II, Section 1c and section 1.471 83207
of the Revised Code, the amendments take effect October 1, 2005. 83208
If, however, a referendum petition is filed against the 83209
amendments, the amendments, unless rejected at the referendum, 83210
take effect at the earliest time permitted by law that is on or 83211
after the effective date specified in this division. 83212

(B) The amendment by this act to division (B) of section 83213
5111.02 (5111.021) of the Revised Code striking the last sentence 83214
of that division (B) is not subject to the referendum. Therefore, 83215
under Ohio Constitution, Article II, Section 1d and section 1.471 83216
of the Revised Code, the amendment takes effect July 1, 2005. 83217

Section 612.57. (A) Except as otherwise provided in division 83218
(B) of this section, the amendments to section 5111.06 of the 83219
Revised Code are subject to the referendum. Therefore, under Ohio 83220
Constitution, Article II, Section 1c and section 1.471 of the 83221

Revised Code, the amendments go into effect on October 1, 2005. 83222
If, however, a referendum petition is filed against the 83223
amendments, the amendments, unless rejected at the referendum, 83224
take effect at the earliest time permitted by law that is on or 83225
after the effective date specified in this division. 83226

(B) The amendment to division (A)(1) of section 5111.06 of 83227
the Revised Code that inserts a reference to section 5111.061 of 83228
the Revised Code is not subject to the referendum. Therefore, 83229
under Ohio Constitution, Article II, Section 1d and section 1.471 83230
of the Revised Code, the amendment goes into immediate effect when 83231
this act becomes law. 83232

Section 612.63. (A) Except as otherwise provided in division 83233
(B) of this section, the amendment renumbering section 5111.88 as 83234
section 5111.97 of the Revised Code is subject to the referendum. 83235
Therefore, under Ohio Constitution, Article II, Section 1c and 83236
section 1.471 of the Revised Code, the renumbering amendment takes 83237
effect October 1, 2005. If, however, a referendum petition is 83238
filed against the renumbering amendment, the renumbering 83239
amendment, unless rejected at the referendum, takes effect at the 83240
earliest time permitted by law that is on or after the effective 83241
date specified in this division. 83242

(B) The amendment to division (B)(2) of section 5111.88 83243
(5111.97) of the Revised Code striking "eighteen" and inserting 83244
"twelve" is not subject to the referendum. Therefore, under Ohio 83245
Constitution, Article II, Section 1d and section 1.471 of the 83246
Revised Code, the amendment goes into immediate effect when this 83247
act becomes law. 83248

Section 612.66. (A) Except as otherwise provided in division 83249
(B) of this section, the amendments to section 5727.84 of the 83250
Revised Code provide for or are essential to implementation of a 83251

tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments go into immediate effect when this act becomes law. 83252
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(B) The amendments striking divisions (B)(6) and (7) and (C)(3) from section 5727.84 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law. 83255
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Section 612.69. (A) Except as otherwise provided in division (B) of this section, the amendments to section 5727.85 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments go into immediate effect when this act becomes law. 83263
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(B) The amendments to section 5727.85 of the Revised Code that insert new language into division (F), strike "February" and insert "May," strike divisions (G) and (H) and the two unlettered paragraphs following, insert new division (H), and add an internal cross-reference to division (F) of the section are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, the amendments, unless rejected at the referendum, take effect at the earliest time permitted by law. 83269
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Section 612.72. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5747.01 83280
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of the Revised Code provides for or is essential to implementation 83282
of a tax levy. Therefore, under Ohio Constitution, Article II, 83283
Section 1d, the amendments are not subject to the referendum and 83284
go into immediate effect when this act becomes law. 83285

(B) The amendment to division (A)(10) of section 5747.01 of 83286
the Revised Code is subject to the referendum. Therefore, under 83287
Ohio Constitution, Article II, Section 1c and section 1.471 of the 83288
Revised Code, the amendment takes effect on the ninety-first day 83289
after this act is filed with the Secretary of State. If, however, 83290
a referendum petition is filed against the amendment, the 83291
amendment, unless rejected at the referendum, takes effect at the 83292
earliest time permitted by law. 83293

Section 615.03. Except as otherwise specifically provided in 83294
this act, the uncodified sections of law amended or enacted in 83295
this act, and the items of law of which the uncodified sections of 83296
law amended or enacted in this act are composed, are not subject 83297
to the referendum. Therefore, under Ohio Constitution, Article II, 83298
Section 1d and section 1.471 of the Revised Code, the uncodified 83299
sections of law amended or enacted in this act, and the items of 83300
law of which the uncodified sections of law amended or enacted in 83301
this act are composed, go into immediate effect when this act 83302
becomes law. 83303

Section 615.06. Uncodified sections of law amended or enacted 83304
in this act, and items of law contained within the uncodified 83305
sections of law amended or enacted in this act, that are marked 83306
with an asterisk are subject to the referendum. Therefore, under 83307
Ohio Constitution, Article II, Section 1c and section 1.471 of the 83308
Revised Code, the uncodified sections and items of law marked with 83309
an asterisk take effect on the ninety-first day after this act is 83310
filed with the Secretary of State. If, however, a referendum 83311

petition is filed against an uncodified section or item of law 83312
marked with an asterisk, the uncodified section or item of law 83313
marked with an asterisk, unless rejected at the referendum, takes 83314
effect at the earliest time permitted by law. 83315

If the amending and existing repeal clauses commanding the 83316
amendment of an uncodified section of law are both marked with 83317
asterisks, the uncodified section as amended is deemed also to 83318
have been marked with an asterisk. 83319

An asterisk marking an uncodified section or item of law has 83320
the form *. 83321

This section defines the meaning and form of, but is not 83322
itself to be considered marked with, an asterisk. 83323

Section 615.90. If the amendment or enactment in this act of 83324
a codified or uncodified section of law is subject to the 83325
referendum, the corresponding indications in the amending, 83326
enacting, or existing repeal clauses commanding the amendment or 83327
enactment also are subject to the referendum, along with the 83328
amendment or enactment. If the amendment or enactment by this act 83329
of a codified or uncodified section of law is not subject to the 83330
referendum, the corresponding indications in the amending, 83331
enacting, or existing repeal clauses commanding the amendment or 83332
enactment also are not subject to the referendum, the same as the 83333
amendment or enactment. 83334

Section 618.03. The amendment of sections 5112.03 and 5112.08 83335
of the Revised Code are not intended to supersede the earlier 83336
repeal, with delayed effective date, of those sections. 83337

Section 618.06. The General Assembly, applying the principle 83338
stated in division (B) of section 1.52 of the Revised Code that 83339
amendments are to be harmonized if reasonably capable of 83340

simultaneous operation, finds that the following sections, 83341
presented in this act as composites of the sections as amended by 83342
the acts indicated, are the resulting versions of the sections in 83343
effect prior to the effective date of the sections as presented in 83344
this act: 83345

Section 122.74 of the Revised Code as amended by both Am. 83346
Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly. 83347

Section 2151.86 of the Revised Code as amended by both Am. 83348
Sub. H.B. 106 and Am. Sub. H.B. 117 of the 125th General Assembly. 83349

Section 2921.13 of the Revised Code as amended by Am. Sub. 83350
H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th 83351
General Assembly. 83352

Section 3314.03 of the Revised Code as amended by both Am. 83353
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. 83354

Section 3317.023 of the Revised Code as amended by both Am. 83355
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. 83356

Section 3317.026 of the Revised Code as amended by both Sub. 83357
H.B. 129 and Sub. S.B. 200 of the 124th General Assembly. 83358

Section 5739.01 of the Revised Code as amended by both Am. 83359
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly. 83360

Section 5739.02 of the Revised Code as amended by both Am. 83361
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly. 83362

Section 5741.02 of the Revised Code as amended by Am. Sub. 83363
H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General 83364
Assembly. 83365

Section 5743.03 of the Revised Code as amended by both Am. 83366
Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly. 83367

Section 5743.081 of the Revised Code as amended by both Sub. 83368
S.B. 200 and Am. Sub. S.B. 261 of the 124th General Assembly. 83369